



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative text / texts*

CANADA

Communicated by the Government of Canada

Note by the Secretariat

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non relevant parts or laws and regulations have been deleted by the Secretariat, such deletions are indicated by [...].

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E/NL.2004/16

(R.S. 1985, c. C-46) Criminal Code

CRIMINAL CODE

(extracts)

[...]

PART XII.1

INSTRUMENTS AND LITERATURE FOR ILLICIT DRUG USE

Interpretation

Definitions	462.1 In this Part,
"consume"	"consume" includes inhale, inject into the human body, masticate and smoke;
"illicit drug"	"illicit drug" means a controlled substance or precursor the import, export, production, sale or possession of which is prohibited or restricted pursuant to the <i>Controlled Drugs and Substances Act</i> ; ¹
"illicit drug use"	"illicit drug use" means the importation, exportation, production, sale or possession of a controlled substance or precursor contrary to the <i>Controlled Drugs and Substances Act</i> or a regulation made under that Act;
"instrument for illicit drug use"	"instrument for illicit drug use" means anything designed primarily or intended under the circumstances for consuming or to facilitate the consumption of an illicit drug, but does not include a "device" as that term is defined in section 2 of the <i>Food and Drugs Act</i> ; ²
"literature for illicit drug use"	"literature for illicit drug use" means any printed matter or video describing or depicting, and designed primarily or intended under the circumstances to promote, encourage or advocate, the production, preparation or consumption of illicit drugs;
"sell"	"sell" includes offer for sale, expose for sale, have in possession for sale and distribute, whether or not the distribution is made for consideration. R.S., 1985, c. 50 (4th Supp.), s. 1; 1996, c. 19, s. 67.

Offence and Punishment

Offence	462.2 Every one who knowingly imports into Canada, exports from Canada, manufactures, promotes or sells instruments or literature for illicit drug use is guilty of an offence and liable on summary conviction
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¹ Note by the Secretariat: E/NL.2004/21

² Note by the Secretariat: E/NL.2004/17

(a) for a first offence, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months or to both; or

(b) for a second or subsequent offence, to a fine not exceeding three hundred thousand dollars or to imprisonment for a term not exceeding one year or to both.

R.S., 1985, c. 50 (4th Supp.), s. 1.

[...]

FOOD AND DRUGS ACT

CHAPTER F-27

An Act respecting food, drugs, cosmetics and therapeutic devices

SHORT TITLE

Short title

1. This Act may be cited as the *Food and Drugs Act*.

R.S., c. F-27, s. 1.

INTERPRETATION

Definitions

2. In this Act,

"advertisement"

"advertisement" includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device;

"analyst"

"analyst" means a person designated as an analyst for the purpose of the enforcement of this Act under section 28 or under section 13 of the *Canadian Food Inspection Agency Act*;

"contraceptive device"

"contraceptive device" means any instrument, apparatus, contrivance or substance other than a drug, that is manufactured, sold or represented for use in the prevention of conception;

"cosmetic"

"cosmetic" includes any substance or mixture of substances manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin, hair or teeth, and includes deodorants and perfumes;

"Department"

"Department" means the Department of Health;

"device"

"device" means any article, instrument, apparatus or contrivance, including any component, part or accessory thereof, manufactured, sold or represented for use in

(a) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or its symptoms, in human beings or animals,

(b) restoring, correcting or modifying a body function or the body structure of human beings or animals,

(c) the diagnosis of pregnancy in human beings or animals, or

(d) the care of human beings or animals during pregnancy and at and after birth of the offspring, including care of the offspring,

and includes a contraceptive device but does not include a drug;

"drug"

"drug" includes any substance or mixture of substances manufactured, sold or represented for use in

(a) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or its symptoms, in human beings or animals,

(b) restoring, correcting or modifying organic functions in human beings or animals, or

(c) disinfection in premises in which food is manufactured, prepared or kept;

"food"

"food" includes any article manufactured, sold or represented for use as food or drink for human beings, chewing gum, and any ingredient that may be mixed with food for any purpose whatever;

"inspector"

"inspector" means any person designated as an inspector for the purpose of the enforcement of this Act under subsection 22(1) or under section 13 of the *Canadian Food Inspection Agency Act*;

"label"

"label" includes any legend, word or mark attached to, included in, belonging to or accompanying any food, drug, cosmetic, device or package;

"Minister"

"Minister" means the Minister of Health;

"package"

"package" includes any thing in which any food, drug, cosmetic or device is wholly or partly contained, placed or packed;

"prescribed"

"prescribed" means prescribed by the regulations;

"sell"

"sell" includes offer for sale, expose for sale, have in possession for sale and distribute, whether or not the distribution is made for consideration;

"unsanitary conditions"

"unsanitary conditions" means such conditions or circumstances as might contaminate with dirt or filth, or render injurious to health, a food, drug or cosmetic.

R.S., 1985, c. F-27, s. 2; R.S., 1985, c. 27 (1st Supp.), s. 191; 1992, c. 1, s. 145(F); 1993, c. 34, s. 71; 1994, c. 26, s. 32(F), c. 38, s. 18; 1995, c. 1, s. 63; 1996, c. 8, ss. 23.1, 32, 34; 1997, c. 6, s. 62.

PART I
FOODS, DRUGS, COSMETICS AND DEVICES

General

Prohibited advertising

3. (1) No person shall advertise any food, drug, cosmetic or device to the general public as a treatment, preventative or cure for any of the diseases, disorders or abnormal physical states referred to in Schedule A.

Prohibited label or advertisement where sale made

(2) No person shall sell any food, drug, cosmetic or device

(a) that is represented by label, or

(b) that the person advertises to the general public

as a treatment, preventative or cure for any of the diseases, disorders or abnormal physical states referred to in Schedule A.

Unauthorized advertising of contraceptive device prohibited

(3) Except as authorized by regulation, no person shall advertise to the general public any contraceptive device or any drug manufactured, sold or represented for use in the prevention of conception.

R.S., 1985, c. F-27, s. 3; 1993, c. 34, s. 72(F).

Food

Prohibited sales of food

4. No person shall sell an article of food that

(a) has in or on it any poisonous or harmful substance;

(b) is unfit for human consumption;

(c) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance;

(d) is adulterated; or

(e) was manufactured, prepared, preserved, packaged or stored under unsanitary conditions.

R.S., c. F-27, s. 4.

Deception, etc., regarding food

5. (1) No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety.

Food labelled or packaged in contravention of regulations

(2) An article of food that is not labelled or packaged as required by, or is labelled or packaged contrary to, the regulations shall be deemed to be labelled or packaged contrary to subsection (1).

R.S., c. F-27, s. 5.

Importation and interprovincial movement of food

6. (1) Where a standard for a food has been prescribed, no person shall

(a) import into Canada,

(b) send, convey or receive for conveyance from one province to another, or

(c) have in possession for the purpose of sending or conveying from one province to another

any article that is intended for sale and that is likely to be mistaken for that food unless the article complies with the prescribed standard.

Not applicable to carriers

(2) Paragraphs (1)(b) and (c) do not apply to an operator of a conveyance that is used to carry an article or to a carrier of an article whose sole concern, in respect of the article, is the conveyance of the article unless the operator or carrier could, with reasonable diligence, have ascertained that the conveying or receiving for conveyance of the article or the possession of the article for the purpose of conveyance would be in contravention of subsection (1).

Labelling, etc., of food that is imported or moved interprovincially

(3) Where a standard for a food has been prescribed, no person shall label, package, sell or advertise any article that

(a) has been imported into Canada,

(b) has been sent or conveyed from one province to another, or

(c) is intended to be sent or conveyed from one province to another

in such a manner that it is likely to be mistaken for that food unless the article complies with the prescribed standard.

R.S., 1985, c. F-27, s. 6; R.S., 1985, c. 27 (3rd Supp.), s. 1.

Governor in Council may identify standard or portion thereof

6.1 (1) The Governor in Council may, by regulation, identify a standard prescribed for a food, or any portion of the standard, as being necessary to prevent injury to the health of the consumer or purchaser of the food.

Where standard or portion thereof is identified

(2) Where a standard or any portion of a standard prescribed for a food is identified by the Governor in Council pursuant to subsection (1), no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for that food unless the article complies with the standard or portion of a standard so identified.

R.S., 1985, c. 27 (3rd Supp.), s. 1.

Unsanitary manufacture, etc., of food

7. No person shall manufacture, prepare, preserve, package or store for sale any food under unsanitary conditions.

R.S., c. F-27, s. 7.

Drugs

Prohibited sales of drugs

8. No person shall sell any drug that

(a) was manufactured, prepared, preserved, packaged or stored under unsanitary conditions; or

(b) is adulterated.

R.S., c. F-27, s. 8.

Deception, etc., regarding drugs

9. (1) No person shall label, package, treat, process, sell or advertise any drug in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety.

Drugs labelled or packaged in contravention of regulations

(2) A drug that is not labelled or packaged as required by, or is labelled or packaged contrary to, the regulations shall be deemed to be labelled or packaged contrary to subsection (1).

R.S., c. F-27, s. 9.

Where standard prescribed for drug

10. (1) Where a standard has been prescribed for a drug, no person shall label, package, sell or advertise any substance in such a manner that it is likely to be mistaken for that drug, unless the substance complies with the prescribed standard.

Trade standards

(2) Where a standard has not been prescribed for a drug, but a standard for the drug is contained in any publication referred to in Schedule B, no person shall label, package, sell or advertise any substance in such a manner that it is likely to be mistaken for that drug, unless the substance complies with the standard.

Where no prescribed or trade standard

(3) Where a standard for a drug has not been prescribed and no standard for the drug is contained in any publication referred to in Schedule B, no person shall sell the drug unless

(a) it is in accordance with the professed standard under which it is sold; and

(b) it does not resemble, in a manner likely to deceive, any drug for which a standard has been prescribed or is contained in any publication referred to in Schedule B.

R.S., c. F-27, s. 10.

Unsanitary manufacture, etc., of drug

11. No person shall manufacture, prepare, preserve, package or store for sale any drug under unsanitary conditions.

R.S., c. F-27, s. 11.

Drugs not to be sold unless safe manufacture indicated

12. No person shall sell any drug described in Schedule C or D unless the Minister has, in prescribed form and manner, indicated that the premises in which the drug was manufactured and the process and conditions of manufacture therein are suitable to ensure that the drug will not be unsafe for use.

R.S., c. F-27, s. 12.

Drugs not to be sold unless safe batch indicated

13. No person shall sell any drug described in Schedule E unless the Minister has, in prescribed form and manner, indicated that the batch from which the drug was taken is not unsafe for use.

R.S., c. F-27, s. 13.

Samples

14. (1) No person shall distribute or cause to be distributed any drug as a sample.

Exception

(2) Subsection (1) does not apply to the distribution, under prescribed conditions, of samples of drugs to physicians, dentists, veterinary surgeons or pharmacists.

R.S., c. F-27, s. 14.

Schedule F drugs not to be sold

15. No person shall sell any drug described in Schedule F.

R.S., c. F-27, s. 15.

Cosmetics

Prohibited sales of cosmetics

16. No person shall sell any cosmetic that

(a) has in or on it any substance that may cause injury to the health of the user when the cosmetic is used,

(i) according to the directions on the label or accompanying the cosmetic, or

(ii) for such purposes and by such methods of use as are customary or usual therefor;

(b) consists in whole or in part of any filthy or decomposed substance or of any foreign matter; or

(c) was manufactured, prepared, preserved, packaged or stored under unsanitary conditions.

R.S., c. F-27, s. 16.

Where standard prescribed for cosmetic

17. Where a standard has been prescribed for a cosmetic, no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for that cosmetic, unless the article complies with the prescribed standard.

R.S., c. F-27, s. 17.

Unsanitary conditions

18. No person shall manufacture, prepare, preserve, package or store for sale any cosmetic under unsanitary conditions.

R.S., c. F-27, s. 18.

Devices

Prohibited sales of devices

19. No person shall sell any device that, when used according to directions or under such conditions as are customary or usual, may cause injury to the health of the purchaser or user thereof.

R.S., c. F-27, s. 19.

Deception, etc., regarding devices

20. (1) No person shall label, package, treat, process, sell or advertise any device in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its design, construction, performance, intended use, quantity, character, value, composition, merit or safety.

Devices labelled or packaged in contravention of regulations

(2) A device that is not labelled or packaged as required by, or is labelled or packaged contrary to, the regulations shall be deemed to be labelled or packaged contrary to subsection (1).

R.S., c. F-27, s. 20; 1976-77, c. 28, s. 16.

Where standard prescribed for device

21. Where a standard has been prescribed for a device, no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for that device, unless the article complies with the prescribed standard.

R.S., c. F-27, s. 21.

PART II

ADMINISTRATION AND ENFORCEMENT

Inspection, Seizure and Forfeiture

Inspectors

22. (1) The Minister may designate any person as an inspector for the purpose of the enforcement of this Act.

Certificate to be produced

(2) An inspector shall be given a certificate in a form established by the Minister or the President of the Canadian Food Inspection Agency attesting to the inspector's designation and, on entering any place pursuant to subsection 23(1), an inspector shall, if so required, produce the certificate to the person in charge of that place.

R.S., 1985, c. F-27, s. 22; 1997, c. 6, s. 63.

Powers of inspectors

23. (1) Subject to subsection (1.1), an inspector may at any reasonable time enter any place where the inspector believes on reasonable grounds any article to which this Act or the regulations apply is manufactured, prepared, preserved, packaged or stored, and may

(a) examine any such article and take samples thereof, and examine anything that the inspector believes on reasonable grounds is used or capable of being used for that manufacture, preparation, preservation, packaging or storing;

(a.1) enter any conveyance that the inspector believes on reasonable grounds is used to carry any article to which section 6 or 6.1 applies and examine any such article found therein and take samples thereof;

(b) open and examine any receptacle or package that the inspector believes on reasonable grounds contains any article to which this Act or the regulations apply;

(c) examine and make copies of, or extracts from, any books, documents or other records found in any place referred to in this subsection that the inspector believes on reasonable grounds contain any information relevant to the enforcement of this Act with respect to any article to which this Act or the regulations apply; and

(d) seize and detain for such time as may be necessary any article by means of or in relation to which the inspector believes on reasonable grounds any provision of this Act or the regulations has been contravened.

Warrant required to enter dwelling-house

(1.1) Where any place mentioned in subsection (1) is a dwelling-house, an inspector may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (1.2).

Authority to issue warrant

(1.2) Where on *ex parte* application a justice of the peace is satisfied by information on oath

(a) that the conditions for entry described in subsection (1) exist in relation to a dwelling-house,

(b) that entry to the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,

the justice of the peace may issue a warrant under his hand authorizing the inspector named therein to enter that dwelling-house subject to such conditions as may be specified in the warrant.

Use of force

(1.3) In executing a warrant issued under subsection (1.2), the inspector named therein shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

Definition of "article to which this Act or the regulations apply"

(2) In subsection (1), "article to which this Act or the regulations apply" includes

(a) any food, drug, cosmetic or device;

(b) anything used for the manufacture, preparation, preservation, packaging or storing thereof; and

(c) any labelling or advertising material.

Assistance and information to be given inspector

(3) The owner or person in charge of a place entered by an inspector pursuant to subsection (1) and every person found therein shall give the inspector all reasonable assistance and furnish the inspector with any information he may reasonably require.

R.S., 1985, c. F-27, s. 23; R.S., 1985, c. 31 (1st Supp.), s. 11, c. 27 (3rd Supp.), s. 2.

Obstruction and false statements

24. (1) No person shall obstruct or hinder, or knowingly make any false or misleading statement either orally or in writing to, an inspector while the inspector is engaged in carrying out his duties or functions under this Act or the regulations.

Interference

(2) Except with the authority of an inspector, no person shall remove, alter or interfere in any way with anything seized under this Part.

R.S., c. F-27, ss. 22, 37.

Storage and removal

25. Any article seized under this Part may, at the option of an inspector, be kept or stored in the building or place where it was seized or, at the direction of an inspector, the article may be removed to any other proper place.

R.S., c. F-27, ss. 22, 37.

Release of seized articles

26. An inspector who has seized any article under this Part shall release it when he is satisfied that all the provisions of this Act and the regulations with respect thereto have been complied with.

R.S., c. F-27, ss. 23, 37.

Destruction with consent

27. (1) Where an inspector has seized an article under this Part and its owner or the person in whose possession the article was at the time of seizure consents to its destruction, the article is thereupon forfeited to Her Majesty and may be destroyed or otherwise disposed of as the Minister or the Minister of Agriculture and Agri-Food may direct.

Forfeiture

(2) Where a person has been convicted of a contravention of this Act or the regulations, the court or judge may order that any article by means of or in relation to which the offence was committed, and any thing of a similar nature belonging to or in the possession of the person or found with the article, be forfeited. On the making of the order, the article and thing are forfeited to Her Majesty and may be disposed of as the Minister or the Minister of Agriculture and Agri-Food may direct.

Order for forfeiture on application of inspector

(3) Without prejudice to subsection (2), a judge of a superior court of the province in which any article is seized under this Part may, on the application of an inspector and on such notice to such persons as the judge directs, order that the article and any thing of a similar nature found with it be forfeited to Her Majesty, if the judge finds, after making such inquiry as the judge considers necessary, that the article is one by means of or in relation to which any of the provisions of this Act or the regulations have been contravened. On the making of the order, the article or thing may be disposed of as the Minister or the Minister of Agriculture and Agri-Food may direct.

R.S., 1985, c. F-27, s. 27; 1992, c. 1, s. 145(F); 1994, c. 38, s. 19; 1995, c. 1, s. 62; 1996, c. 8, s. 23.2; 1997, c. 6, s. 64.

Analysis

Analysts

28. The Minister may designate any person as an analyst for the purpose of the enforcement of this Act.

1980-81-82-83, c. 47, s. 19.

Analysis and examination

29. (1) An inspector may submit to an analyst, for analysis or examination, any article seized by the inspector, any sample therefrom or any sample taken by the inspector.

Certificate or report

(2) An analyst who has made an analysis or examination may issue a certificate or report setting out the results of the analysis or examination.

R.S., c. F-27, s. 24.

Regulations

Regulations

30. (1) The Governor in Council may make regulations for carrying the purposes and provisions of this Act into effect, and, in particular, but without restricting the generality of the foregoing, may make regulations

(a) declaring that any food or drug or class of food or drugs is adulterated if any prescribed substance or class of substances is present therein or has been added thereto or extracted or omitted therefrom;

(b) respecting

(i) the labelling and packaging and the offering, exposing and advertising for sale of food, drugs, cosmetics and devices,

(ii) the size, dimensions, fill and other specifications of packages of food, drugs, cosmetics and devices,

(iii) the sale or the conditions of sale of any food, drug, cosmetic or device, and

(iv) the use of any substance as an ingredient in any food, drug, cosmetic or device,

to prevent the purchaser or consumer thereof from being deceived or misled in respect of the design, construction, performance, intended use, quantity, character, value, composition, merit or safety thereof, or to prevent injury to the health of the purchaser or consumer;

(c) prescribing standards of composition, strength, potency, purity, quality or other property of any article of food, drug, cosmetic or device;

(d) respecting the importation of foods, drugs, cosmetics and devices in order to ensure compliance with this Act and the regulations;

(e) respecting the method of manufacture, preparation, preserving, packing, storing and testing of any food, drug, cosmetic or device in the interest of, or for the prevention of injury to, the health of the purchaser or consumer;

(f) requiring persons who sell food, drugs, cosmetics or devices to maintain such books and records as the Governor in Council considers necessary for the proper enforcement and administration of this Act and the regulations;

(g) respecting the form and manner of the Minister's indication under section 12, including the fees payable therefor, and prescribing what premises or what processes or conditions of manufacture, including qualifications of technical staff, shall or shall not be deemed to be suitable for the purposes of that section;

(h) requiring manufacturers of any drugs described in Schedule E to submit test portions of any batch of those drugs and respecting the form and manner of the Minister's indication under section 13, including the fees payable therefor;

(i) respecting the powers and duties of inspectors and analysts and the taking of samples and the seizure, detention, forfeiture and disposition of articles;

(j) exempting any food, drug, cosmetic or device from all or any of the provisions of this Act and prescribing the conditions of the exemption;

- (k) prescribing forms for the purposes of this Act and the regulations;
- (l) providing for the analysis of food, drugs or cosmetics other than for the purposes of this Act and prescribing a tariff of fees to be paid for that analysis;
- (l.1) respecting the assessment of the effect on the environment or on human life and health of the release into the environment of any food, drug, cosmetic or device, and the measures to take before importing or selling any such food, drug, cosmetic or device;
- (m) adding anything to any of the schedules, in the interest of, or for the prevention of injury to, the health of the purchaser or consumer, or deleting anything therefrom;
- (n) respecting the distribution or the conditions of distribution of samples of any drug;
- (o) respecting
 - (i) the method of manufacture, preparation, preserving, packing, labelling, storing and testing of any new drug, and
 - (ii) the sale or the conditions of sale of any new drug,and defining for the purposes of this Act the expression "new drug"; and
- (p) authorizing the advertising to the general public of contraceptive devices and drugs manufactured, sold or represented for use in the prevention of conception and prescribing the circumstances and conditions under which, and the persons by whom, those devices and drugs may be so advertised.

Regulations respecting drugs manufactured outside Canada

- (2) Without limiting or restricting the authority conferred by any other provisions of this Act or any Part thereof for carrying into effect the purposes and provisions of this Act or any Part thereof, the Governor in Council may make such regulations governing, regulating or prohibiting
- (a) the importation into Canada of any drug or class of drugs manufactured outside Canada, or
 - (b) the distribution or sale in Canada, or the offering, exposing or having in possession for sale in Canada, of any drug or class of drugs manufactured outside Canada,
- as the Governor in Council deems necessary for the protection of the public in relation to the safety and quality of any such drug or class of drugs.

Regulations re the North American Free Trade Agreement and WTO Agreement

- (3) Without limiting or restricting the authority conferred by any other provisions of this Act or any Part thereof for carrying into effect the purposes and provisions of this Act or any Part thereof, the Governor in Council may make such regulations as the Governor in Council deems necessary for the purpose of implementing, in relation to drugs, Article 1711 of the North American Free Trade Agreement or paragraph 3 of Article 39 of the Agreement on Trade-related Aspects of Intellectual Property Rights set out in Annex 1C to the WTO Agreement.

Definitions

- (4) In subsection (3),

"North American Free Trade Agreement"

"North American Free Trade Agreement" has the meaning given to the word "Agreement" by subsection 2(1) of the *North American Free Trade Agreement Implementation Act*;

"WTO Agreement"

"WTO Agreement" has the meaning given to the word "Agreement" by subsection 2(1) of the *World Trade Organization Agreement Implementation Act*.

R.S., 1985, c. F-27, s. 30; 1993, c. 44, s. 158; 1994, c. 47, s. 117; 1999, c. 33, s. 347.

Offences and Punishment

Contravention of Act or regulations

31. Subject to section 31.1, every person who contravenes any of the provisions of this Act or of the regulations made under this Part is guilty of an offence and liable

(a) on summary conviction for a first offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both and, for a subsequent offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both; and

(b) on conviction on indictment to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both.

R.S., 1985, c. F-27, s. 31; 1996, c. 19, s. 77; 1997, c. 6, ss. 65, 91.

Offences relating to food

31.1 Every person who contravenes any provision of this Act or the regulations, as it relates to food, is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding six months or to both; or

(b) on conviction by indictment, to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding three years or to both.

1997, c. 6, s. 66.

Limitation period

32. (1) A prosecution for a summary conviction offence under this Act may be instituted at any time within two years after the time the subject-matter of the prosecution becomes known to the Minister or, in the case of a contravention of a provision of the Act that relates to food, to the Minister of Agriculture and Agri-Food.

Minister's certificate

(2) A document purporting to have been issued by the Minister referred to in subsection (1), certifying the day on which the subject-matter of any prosecution became known to the Minister, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and is evidence of the matters asserted in it.

R.S., 1985, c. F-27, s. 32; 1997, c. 6, s. 66.

Venue

33. A prosecution for a contravention of this Act or the regulations may be instituted, heard, tried or determined in the place in which the offence was committed or the subject-matter of the prosecution arose or in any place in which the accused is apprehended or happens to be.

R.S., c. F-27, s. 28.

Want of knowledge

34. (1) Subject to subsection (2), in a prosecution for the sale of any article in contravention of this Act, except Parts III and IV, or of the regulations made under this Part, if the accused proves to the satisfaction of the court or judge that

(a) the accused purchased the article from another person in packaged form and sold it in the same package and in the same condition the article was in at the time it was so purchased, and

(b) that the accused could not with reasonable diligence have ascertained that the sale of the article would be in contravention of this Act or the regulations,

the accused shall be acquitted.

Notice of reliance on want of knowledge

(2) Subsection (1) does not apply in any prosecution unless the accused, at least ten days before the day fixed for the trial, has given to the prosecutor notice in writing that the accused intends to avail himself of the provisions of subsection (1) and has disclosed to the prosecutor the name and address of the person from whom the accused purchased the article and the date of purchase.

R.S., c. F-27, ss. 29, 39, 46.

Certificate of analyst

35. (1) Subject to this section, in any prosecution for an offence under section 31, a certificate purporting to be signed by an analyst and stating that an article, sample or substance has been submitted to, and analyzed or examined by, the analyst and stating the results of the analysis or examination is admissible in evidence and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate without proof of the signature or official character of the person appearing to have signed it.

Requiring attendance of analyst

(2) The party against whom a certificate of an analyst is produced pursuant to subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

Notice of intention to produce certificate

(3) No certificate shall be admitted in evidence pursuant to subsection (1) unless, before the trial, the party intending to produce the certificate has given reasonable notice of that intention, together with a copy of the certificate, to the party against whom it is intended to be produced.

Proof of service

(4) For the purposes of this Act, service of any certificate referred to in subsection (1) may be proved by oral evidence given under oath by, or by the affidavit or solemn declaration of, the person claiming to have served it.

Attendance for examination

(5) Notwithstanding subsection (4), the court may require the person who appears to have signed an affidavit or solemn declaration referred to in that subsection to appear before it for examination or cross-examination in respect of the issue of proof of service.

R.S., 1985, c. F-27, s. 35; R.S., 1985, c. 27 (1st Supp.), s. 192; 1996, c. 19, s. 78.

Proof as to manufacturer or packager

36. (1) In a prosecution for a contravention of this Act or of the regulations made under this Part, proof that a package containing any article to which this Act or the regulations apply bore a name or address purporting to be the name or address of the person by whom it was manufactured or packaged is, in the absence of evidence to the contrary, proof that the article was manufactured or packaged, as the case may be, by the person whose name or address appeared on the package.

Offence by employee or agent

(2) In a prosecution for a contravention described in subsection (1), it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence.

Certified copies and extracts

(3) In a prosecution for a contravention described in subsection (1), a copy of a record or an extract therefrom certified to be a true copy by the inspector who made it pursuant to paragraph 23(1)(c) is admissible in evidence and is, in the absence of evidence to the contrary, proof of its contents.

Where accused had adulterating substances

(4) Where a person is prosecuted under this Part for having manufactured an adulterated food or drug for sale, and it is established that the person had in his possession or on his premises any substance the addition of which to that food or drug has been declared by regulation to cause the adulteration of the food or drug, the onus of proving that the food or drug was not adulterated by the addition of that substance lies on the accused.

R.S., 1985, c. F-27, s. 36; 1996, c. 19, s. 79.

Exports

Conditions under which exports exempt

37. (1) This Act does not apply to any packaged food, drug, cosmetic or device, not manufactured for consumption in Canada and not sold for consumption in Canada, if the package is marked in distinct overprinting with the word "Export" or "Exportation" and a certificate that the package and its contents do not contravene any known requirement of the law of the country to which it is or is about to be consigned has been issued in respect of the package and its contents in prescribed form and manner.

(2) [Repealed, 1996, c. 19, s. 80]

R.S., 1985, c. F-27, s. 37; 1993, c. 34, s. 73; 1996, c. 19, s. 80.

SCHEDULE A

(Section 3)

Alcoholism	Gout
Alopecia (except hereditary androgenetic alopecia)	Heart disease
Anxiety state	Hernia
Appendicitis	Hypertension
Arteriosclerosis	Hypotension
Arthritis	Impetigo
Asthma	Kidney disease
Bladder disease	Leukemia
Cancer	Liver disease (except hepatitis)
Convulsions	Nausea and vomiting of pregnancy
Depression	Obesity
Diabetes	Pleurisy
Disease of the prostate	Rheumatic fever
Disorder of menstrual flow	Septicemia
Dysentery	Sexual impotence
Edematous state	Thrombotic and Embolic disorders
Epilepsy	Thyroid disease
Gall bladder disease	Tumor
Gangrene	Ulcer of the gastro-intestinal tract
Glaucoma	Venereal disease

R.S., 1985, c. F-27, Sch. A; SOR/88-252; SOR/89-503; SOR/90-655;
SOR/92-198; SOR/94-287; SOR/99-413, 414.

SCHEDULE B

(Section 10)

The most recent editions, including all errata, supplements, revisions and addenda, of the following standards:

<i>Column I</i>	<i>Column II</i>
Item Name	Abbreviation
1. European Pharmacopoeia	(Ph.Eur.)
2. Pharmacopée française	(Ph.F.)
3. Pharmacopoeia Internationalis	(Ph.I.)
4. The British Pharmacopoeia	(B.P.)

5. The Canadian Formulary (C.F.)
6. The National Formulary (N.F.)
7. The Pharmaceutical Codex:
Principles and Practices of
Pharmaceuticals
8. The United States Pharmacopoeia (U.S.P.)

R.S., 1985, c. F-27, Sch. B; SOR/85-276; SOR/89-315; SOR/90-160; SOR/94-288; SOR/95-530, s. 2; SOR/96-96.

SCHEDULE C

(Section 12)

Drugs, other than radionuclides, sold or represented for use in the preparation of radiopharmaceuticals

Radiopharmaceuticals

R.S., c. F-27, Sch. C; SI/72-44; SI/76-1; SOR/79-237; SOR/81-195, 332; SOR/82-769.

SCHEDULE D

(Section 12)

Allergenic substances used for the treatment or diagnosis of allergic or immunological diseases

Anterior pituitary extracts

Aprotinin

Blood and blood derivatives

Cholecystokinin

Drugs obtained by recombinant DNA procedures

Drugs, other than antibiotics, prepared from micro-organisms

Glucagon

Gonadotrophins

Human plasma collected by plasmapheresis

Immunizing agents

Insulin

Interferon

Monoclonal antibodies, their conjugates and derivatives

Secretin

Snake Venom

Urokinase

R.S., 1985, c. F-27, Sch. D; SOR/85-715, s. 1; SOR/89-177; SOR/93-64; SOR/97-560.

SCHEDULE E

(Section 13)

R.S., c. F-27, Sch. E; SOR/77-824; SOR/82-769.

SCHEDULE F

(Section 15)

R.S., c. F-27, Sch. F; SOR/84-566.

SCHEDULES G AND H

[Repealed, 1996, c. 19, s. 82]

RELATED PROVISIONS

R.S., 1985, c. 27 (1st Supp.), s. 208:

Writs of Assistance

"208. Nothing in sections 190, 195, 199 and 200 of this Act shall be construed as rendering invalid or inadmissible in any proceedings any evidence obtained by the exercise of a writ of assistance prior to the coming into force of those sections."

1997, c. 6, s. 66(2):

Transitional

(2) For greater certainty, the two year limitation period provided for in subsection 32(1) of the Act, as amended by subsection (1), only applies in respect of offences committed after the coming into force of that subsection.

E/NL.2004/18

SOR/2003-261
Registration 8 July, 2003

FOOD DRUGS ACT

MARIHUANA EXEMPTION (FOOD AND DRUGS ACT) REGULATIONS

P.C. 2003-1047 8 July, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to paragraph 30(1)(j) of the *Food and Drugs Act*,¹ hereby makes the annexed *Marihuana Exemption (Food and Drugs Act) Regulations*.

MARIHUANA EXEMPTION (FOOD AND DRUGS ACT) REGULATIONS

DEFINITION

1. In these Regulations, "marihuana" means the substance referred to as "Cannabis (marihuana)" in subitem 1(2) of Schedule 11 to the *Controlled Drugs and Substances Act*² other than marihuana sold or imported to be used for the purpose of a clinical trial, as that term is defined in section C.05.001 of the *Food and Drug Regulations*, involving human subjects.

EXEMPTION

2. Marihuana produced under contract with Her Majesty in right of Canada is exempt from the application of the *Food and Drugs Act* and the regulations made under it, other than these Regulations.

COMING INTO FORCE

3. These Regulations come into force on July 8, 2003.

¹ Note by the Secretariat: E/NL.2004/17

² Note by the Secretariat: E/NL.2004/21

E/NL.2004/19

SOR/2003-388
Registration 3 December, 2003

FOOD DRUGS ACT

REGULATIONS AMENDING THE MARIHUANA EXEMPTION (FOOD AND DRUGS ACT) REGULATIONS

P.C. 2003-1909 3 December, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to paragraph 30(1)(j) of the *Food and Drugs Act*,¹ hereby makes the annexed *Regulations Amending the Marihuana Exemption (Food and Drugs Act) Regulations*.

REGULATIONS AMENDING THE MARIHUANA EXEMPTION (FOOD AND DRUGS ACT) REGULATIONS

AMENDMENT

1. The *Marihuana Exemption (Food and Drugs Act) Regulations*² are amended by replacing section 2 and the heading preceding it with the following:

EXEMPTIONS

2. Marihuana is exempt from the application of the *Food and Drugs Act* and the regulations made under it, other than these Regulations, if it is produced:

- (a) under contract with Her Majesty in right of Canada; or
- (b) under a designated-person production licence, as defined in subsection 1(1) of the *Marihuana Medical Access Regulations*.³

COMING INTO FORCE

2. These Regulations come into force on the day on which they are registered.

¹ Note by the Secretariat: E/NL.2004/17

² Original note: SOR/2003-261

³ Note by the Secretariat: E/NL.2004/28

E/NL.2004/20

MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT

R.S., 1985, c. 30 (4th Supp.)

An Act to provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act

[1988, c. 37, assented to 28th July, 1988]

SHORT TITLE

Short title

1. This Act may be cited as the *Mutual Legal Assistance in Criminal Matters Act*.

INTERPRETATION

Definitions

2. (1) In this Act,

"agreement" « *accord* »

"agreement" means a treaty, convention or other international agreement that is in force, to which Canada is a party and that contains a provision respecting mutual legal assistance in criminal matters;

"competent authority"

"competent authority" means the Attorney General of Canada, the attorney general of a province or any person or authority with responsibility in Canada for the investigation or prosecution of offences;

"data"

"data" means representations, in any form, of information or concepts;

"foreign state" [Repealed, 1999, c. 18, s. 97]

"International Criminal Court"

"International Criminal Court" means the International Criminal Court as defined in subsection 2(1) of the *Crimes Against Humanity and War Crimes Act*;

"judge"

"judge" means

(a) in Ontario, a judge of the Superior Court of Justice,

(a.1) in Prince Edward Island, a judge of the trial division of the Supreme Court,

(b) in Quebec, a judge of the Superior Court,

(c) in New Brunswick, Manitoba, Alberta and Saskatchewan, a judge of the Court of Queen's Bench, and

(d) in Nova Scotia, British Columbia, Newfoundland, Yukon and the Northwest Territories, a judge of the Supreme Court, and in Nunavut, a judge of the Nunavut Court of Justice;

"Minister"

"Minister" means the Minister of Justice;

"offence"

"offence" means an offence within the meaning of the relevant agreement;

"record"

"record" means any material on which data are recorded or marked and which is capable of being read or understood by a person or a computer system or other device;

"request"

"request" means a request for assistance presented pursuant to an agreement;

"state or entity"

"state or entity" means

(a) a state, a province, state or political subdivision of the state, or a colony, dependency, possession, protectorate, condominium, trust territory or any territory falling under the jurisdiction of the state, that is a party to an agreement with Canada, or

(b) an international criminal court or tribunal, the name of which appears in the schedule.

"treaty" [Repealed, 1999, c. 18, s. 97]

(2) [Repealed, 1999, c. 18, s. 97]

R.S., 1985, c. 30 (4th Supp.), s. 2; 1992, c. 51, s. 58; 1998, c. 30, s. 14; 1999, c. 3, s. 80, c. 18, s. 97; 2000, c. 24, s. 56; 2002, c. 7, s. 209(E).

Inconsistency of Acts

3. (1) In the event of any inconsistency between the provisions of this Act and the provisions of another Act of Parliament, other than the provisions of an Act prohibiting the disclosure of information or prohibiting its disclosure except under certain conditions, the provisions of this Act prevail to the extent of the inconsistency.

Preservation of informal arrangements

(2) Nothing in this Act or an agreement shall be construed so as to abrogate or derogate from an arrangement or practice respecting cooperation between a Canadian competent authority and a foreign or international authority or organization.

R.S., 1985, c. 30 (4th Supp.), s. 3; 1999, c. 18, s. 98.

SCHEDULE

Designation

4. (1) The names of international criminal courts and tribunals that appear in the schedule are designated as states or entities for the purpose of this Act.

Amendments to schedule

(2) The Minister of Foreign Affairs may, with the agreement of the Minister, by order, add to or delete from the schedule the names of international criminal courts and tribunals.

R.S., 1985, c. 30 (4th Supp.), s. 4; 1999, c. 18, s. 99.

PUBLICATION OF AGREEMENTS

Publication in *Canada Gazette*

5. (1) Unless the agreement has been published under subsection (2), an agreement -- or the provisions respecting mutual legal assistance in criminal matters contained in a convention or other international agreement -- must be published in the *Canada Gazette* no later than 60 days after it comes into force.

Publication in *Canada Treaty Series*

(2) An agreement -- or the provisions respecting mutual legal assistance in criminal matters contained in a convention or other international agreement -- may be published in the *Canada Treaty Series* and, if so published, the publication must be no later than 60 days after it comes into force.

Judicial notice

(3) Agreements and provisions published in the *Canada Gazette* or the *Canada Treaty Series* are to be judicially noticed.

R.S., 1985, c. 30 (4th Supp.), s. 5; 1999, c. 18, s. 99.

ADMINISTRATIVE ARRANGEMENTS

Administrative arrangements

6. (1) If there is no agreement between Canada and a state or entity, or the state's or entity's name does not appear in the schedule, the Minister of Foreign Affairs may, with the agreement of the Minister, enter into an administrative arrangement with the state or entity providing for legal assistance with respect to an investigation specified in the arrangement relating to an act that, if committed in Canada, would be an indictable offence.

Administrative arrangements

(2) If an agreement expressly states that legal assistance may be provided with respect to acts that do not constitute an offence within the meaning of the agreement, the Minister of Foreign Affairs may, in exceptional circumstances and with the agreement of the Minister, enter into an administrative arrangement with the state or entity concerned, providing for legal assistance with respect to an investigation specified in the arrangement relating to an act that, if committed in Canada, would be a contravention of an Act of Parliament or of the legislature of a province.

Nature of administrative arrangement

(3) An administrative arrangement entered into under subsection (1) or (2) may be implemented by the Minister, pursuant to this Act, in the same manner as an agreement.

Idem

(4) An administrative arrangement entered into under subsection (1) or (2) has force and effect only for such period not exceeding six months as is specified therein and with respect to the type of legal assistance that is specified therein.

No scheduling or publication required

(5) Sections 4 and 5 do not apply in respect of an administrative arrangement entered into under subsection (1) or (2).

Proof

(6) In any legal or other proceeding, an administrative arrangement entered into under subsection (1) or (2) and purporting to be signed by the Minister of Foreign Affairs or by a person designated by the Minister of Foreign Affairs is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and proof that it is what it purports to be.

R.S., 1985, c. 30 (4th Supp.), s. 6; 1995, c. 5, s. 25; 1999, c. 18, s. 100.

FUNCTIONS OF THE MINISTER

Functions of Minister

7. (1) The Minister is responsible for the implementation of every agreement and the administration of this Act.

Agreement and Act to apply

(2) When a request is presented to the Minister by a state or entity or a Canadian competent authority, the Minister shall deal with the request in accordance with the relevant agreement and this Act.

R.S., 1985, c. 30 (4th Supp.), s. 7; 1999, c. 18, s. 101.

PART I

FOREIGN INVESTIGATIONS OR OTHER PROCEEDINGS IN RESPECT OF OFFENCES

Implementation

Limitation -- requests under agreements

8. (1) If a request for mutual legal assistance is made under an agreement, the Minister may not give effect to the request by means of the provisions of this Part unless the agreement provides for mutual legal assistance with respect to the subject-matter of the request.

Request by state or entity in schedule

(2) If a request for mutual legal assistance is made by a state or entity whose name appears in the schedule, the Minister may give effect by means of the provisions of this Part to a request with respect to any subject-matter.

R.S., 1985, c. 30 (4th Supp.), s. 8; 1999, c. 18, s. 101.

Fines

Standing and jurisdiction

9. (1) When the Minister approves a request of a state or entity to enforce the payment of a fine imposed in respect of an offence by a court of criminal jurisdiction of the state or entity, a court in Canada has jurisdiction to enforce the payment of the fine, and the fine is recoverable in civil proceedings instituted by the state or entity, as if the fine had been imposed by a court in Canada.

Limitation period

(2) No proceedings under subsection (1) shall be instituted more than five years after the fine was imposed.

Definition of "fine"

(3) For the purposes of this section, "fine" includes any pecuniary penalty determined by a court of criminal jurisdiction of a state or entity to represent the value of any property, benefit or advantage, irrespective of its location, obtained or derived directly or indirectly as a result of the commission of an offence.

R.S., 1985, c. 30 (4th Supp.), s. 9; 1999, c. 18, s. 102.

International Criminal Court

Orders for restraint or seizure

9.1 (1) When a request is presented to the Minister by the International Criminal Court for the enforcement of an order for the restraint or seizure of proceeds of crime, the Minister may authorize the Attorney General of Canada to make arrangements for the enforcement of the order.

Filing of order

(2) On receipt of an authorization, the Attorney General of Canada may file a copy of the order with the superior court of criminal jurisdiction of the province in which property that is the subject of the order is believed to be located.

Enforcement

(3) On being filed, the order may be enforced as if it were a warrant issued under subsection 462.32(1) of the *Criminal Code* or an order made under subsection 462.33(3) of that Act.

2000, c. 24, s. 57.

Orders of reparation or forfeiture or imposing fines

9.2 (1) When a request is presented to the Minister by the International Criminal Court for the enforcement of an order of reparation or forfeiture, or an order imposing a fine, the Minister may authorize the Attorney General of Canada to make arrangements for the enforcement of the order.

Enforcement

(2) On receipt of an authorization, the Attorney General of Canada may file a copy of the order with the superior court of criminal jurisdiction of

- (a) the province in which property that is the subject of the order is believed to be located; or
- (b) the province in which some or all of the property available to satisfy the order is believed to be located.

On being filed, the order shall be entered as a judgment of that court.

Requirement

(3) Before filing an order referred to in subsection (1), the Attorney General of Canada must be satisfied that

- (a) a person has been convicted of an offence within the jurisdiction of the International Criminal Court; and
- (b) the conviction and the order are not subject to further appeal.

Effect of registered order

(4) An order has, from the date it is filed under subsection (2), the same effect as if it had been

- (a) in the case of an order of reparation, an order under section 738 of the *Criminal Code*;

(b) in the case of an order of forfeiture, an order under subsection 462.37(1) or 462.38(2) of that Act; and

(c) in the case of an order imposing a fine, a fine imposed under section 734 of that Act.

Payment into Crimes Against Humanity Fund

(5) Subject to any orders made under subsection (8), proceeds from the enforcement of orders filed under this section shall be paid into the Crimes Against Humanity Fund established under section 30 of the *Crimes Against Humanity and War Crimes Act*.

Filing of amendments

(6) When an order is filed under subsection (2), a copy of any amendments made to the order may be filed in the same way as the order, and the amendments do not, for the purpose of this Act, have effect until they are registered.

Notice

(7) When an order has been filed under subsection (2), it shall not be executed before notice in accordance with subsection 462.41(2) of the *Criminal Code* has been given to every person who, in the opinion of the court, appears to have a valid interest in the property.

Application of *Criminal Code*

(8) Subsection 462.41(3) and section 462.42 of the *Criminal Code* apply, with any modifications that the circumstances require, in respect of a person who claims an interest in the property.

2000, c. 24, s. 57.

Foreign Orders for Restraint, Seizure and Forfeiture of Property in Canada

Orders for restraint or seizure

9.3 (1) When a written request is presented to the Minister by a state or entity, other than the International Criminal Court referred to in section 9.1, for the enforcement of an order for the restraint or seizure of property situated in Canada issued by a court of criminal jurisdiction of the state or entity, the Minister may authorize the Attorney General of Canada or an attorney general of a province to make arrangements for the enforcement of the order.

Filing of order

(2) On receipt of an authorization, the Attorney General of Canada or an attorney general of a province may file a copy of the order with the superior court of criminal jurisdiction of the province in which the property that is the subject of the order is believed to be located. On being filed, the order shall be entered as a judgment of that court and may be executed anywhere in Canada.

Conditions

(3) Before filing an order, the Attorney General of Canada or an attorney general of a province must be satisfied that

(a) the person has been charged with an offence within the jurisdiction of the state or entity; and

(b) the offence would be an indictable offence if it were committed in Canada.

Effect of registered order

(4) On being filed,

(a) an order for the seizure of proceeds of crime may be enforced as if it were a warrant issued under subsection 462.32(1) of the *Criminal Code*;

(b) an order for the restraint of proceeds of crime may be enforced as if it were an order made under subsection 462.33(3) of the *Criminal Code*;

(c) an order for the seizure of offence-related property may be enforced as if it were a warrant issued under subsection 487(1) of the *Criminal Code* or subsection 11(1) of the *Controlled Drugs and Substances Act*, as the case may be; and

(d) an order for the restraint of offence-related property may be enforced as if it were an order made under subsection 490.8(3) of the *Criminal Code* or subsection 14(3) of the *Controlled Drugs and Substances Act*, as the case may be.

Filing of amendments

(5) When an order is filed under subsection (2), a copy of any amendments made to the order may be filed in the same way as the order, and the amendments do not, for the purpose of this Act, have effect until they are registered.

2001, c. 32, s. 65.

Orders of forfeiture

9.4 (1) When a written request is presented to the Minister by a state or entity, other than the International Criminal Court referred to in section 9.1, for the enforcement of an order of forfeiture of property situated in Canada issued by a court of criminal jurisdiction of the state or entity, the Minister may authorize the Attorney General of Canada or an attorney general of a province to make arrangements for the enforcement of the order.

Grounds for refusal of request

(2) The Minister shall refuse the request if he or she

(a) has reasonable grounds to believe that the request has been made for the purpose of punishing a person by reason of their race, sex, sexual orientation, religion, nationality, ethnic origin, language, colour, age, mental or physical disability or political opinion;

(b) is of the opinion that enforcement of the order would prejudice an ongoing proceeding or investigation;

(c) is of the opinion that enforcement of the order would impose an excessive burden on the resources of federal, provincial or territorial authorities;

(d) is of the opinion that enforcement of the order might prejudice Canada's security, national interest or sovereignty; or

(e) is of the opinion that refusal of the request is in the public interest.

Filing of order

(3) On receipt of an authorization, the Attorney General of Canada or an attorney general of a province may file a copy of the order with the superior court of criminal jurisdiction of the province in which all or part of the property that is the subject of the order is believed to be located. On being filed, the order shall be entered as a judgment of that court and may be executed anywhere in Canada.

Deemed filing

(4) An order that is filed under subsection (3) by an attorney general of a province is deemed to be filed by the Attorney General of Canada.

Conditions

(5) Before filing an order, the Attorney General of Canada or an attorney general of a province must be satisfied that

- (a) the person has been convicted of an offence within the jurisdiction of the state or entity;
- (b) the offence would be an indictable offence if it were committed in Canada; and
- (c) the conviction and the order are not subject to further appeal.

Effect of registered order

(6) From the date it is filed under subsection (3), subject to subsection (4),

- (a) an order of forfeiture of proceeds of crime has the same effect as if it were an order under subsection 462.37(1) or 462.38(2) of the *Criminal Code*; and
- (b) an order for the forfeiture of offence-related property has the same effect as if it were an order under subsection 490.1(1) or 490.2(2) of the *Criminal Code* or subsection 16(1) or 17(2) of the *Controlled Drugs and Substances Act*, as the case may be.

Filing of amendments

(7) When an order is filed under subsection (3), a copy of any amendments made to the order may be filed in the same way as the order, and the amendments do not, for the purpose of this Act, have effect until they are registered.

Notice

(8) When an order has been filed under subsection (3),

- (a) an order of forfeiture of proceeds of crime shall not be executed before notice in accordance with subsection 462.41(2) of the *Criminal Code* has been given to any person who, in the opinion of the court, appears to have a valid interest in the property; and
- (b) an order of forfeiture of offence-related property shall not be executed before
 - (i) notice in accordance with subsection 490.41(2) of the *Criminal Code* or section 19.1(2) of the *Controlled Drugs and Substances Act* has been given to any person who resides in a dwelling-house that is offence-related property and who is a member of the immediate family of the person charged with or convicted of the offence in relation to which property would be forfeited, and
 - (ii) notice in accordance with subsection 490.4(2) of the *Criminal Code* or subsection 19(2) of the *Controlled Drugs and Substances Act* has been given to any person who, in the opinion of the court, appears to have a valid interest in the property.

Application of *Criminal Code*

(9) Subsection 462.41(3) and section 462.42 of the *Criminal Code* apply, with any modifications that the circumstances require, to a person who claims an interest in proceeds of crime, and subsections 490.4(3) and 490.41(3) and section 490.5 of the *Criminal Code* and subsections 19(3) and 20(4) of the *Controlled Drugs and Substances Act* apply, with any modifications that the circumstances require, to a person who claims an interest in offence-related property.

Presumption

(10) A person who is convicted of an offence in relation to which an order of forfeiture is issued by a court of criminal jurisdiction of a state or entity is deemed to be a person referred to in paragraph 462.41(3)(a) or 462.42(1)(a) of the *Criminal Code*.

Seized Property Management Act applies

(11) The provisions of the *Seized Property Management Act* apply in respect of all property forfeited under this section.

2001, c. 32, s. 65.

Search and Seizure

Application of *Criminal Code*

10. The *Criminal Code* applies, with any modifications that the circumstances require, in respect of a search or a seizure under this Act, except to the extent that the *Criminal Code* is inconsistent with this Act.

R.S., 1985, c. 30 (4th Supp.), s. 10; 2000, c. 24, s. 58.

Approval of request for investigative measures

11. (1) When the Minister approves a request of a state or entity to have a search or a seizure, or the use of any device or investigative technique or other procedure or the doing of any other thing to be described in a warrant, carried out regarding an offence, the Minister shall provide a competent authority with any documents or information necessary to apply for a search warrant or other warrant.

Application for warrant

(2) The competent authority who is provided with the documents or information shall apply *ex parte* for a search warrant or other warrant to a judge of the province in which the competent authority believes that evidence may be found.

R.S., 1985, c. 30 (4th Supp.), s. 11; 1999, c. 18, s. 103; 2000, c. 24, s. 59.

Issuance of search warrant

12. (1) A judge of a province to whom an application is made under subsection 11(2) may issue a search warrant authorizing a peace officer named therein to execute it anywhere in the province, where the judge is satisfied by statements under oath that there are reasonable grounds to believe that

(a) an offence has been committed;

(b) evidence of the commission of the offence or information that may reveal the whereabouts of a person who is suspected of having committed the offence will be found in a building, receptacle or place in the province; and

(c) it would not, in the circumstances, be appropriate to make an order under subsection 18(1).

Conditions

(2) A judge who issues a search warrant under subsection (1) may subject the execution of the warrant to any conditions that the judge considers desirable, including conditions relating to the time or manner of its execution.

Hearing re execution

(3) A judge who issues a search warrant under subsection (1) shall fix a time and place for a hearing to consider the execution of the warrant as well as the report of the peace officer concerning its execution.

Contents of warrant

(4) A search warrant issued under subsection (1) may be in Form 5 in Part XXVIII of the *Criminal Code*, varied to suit the case, and must

(a) set out the time and place for the hearing mentioned in subsection (3);

(b) state that, at that hearing, an order will be sought for the sending to the state or entity of the records or things seized in execution of the warrant; and

(c) state that every person from whom a record or thing is seized in execution of the warrant and any person who claims to have an interest in a record or thing so seized has the right to make representations at the hearing before any order is made concerning the record or thing.

Execution

(5) A peace officer who executes a search warrant issued under subsection (1) shall, before entering the place or premises to be searched or as soon as practicable thereafter, give a copy of the warrant to any person who is present and appears to be in charge of the place or premises.

Affixing a copy

(6) A peace officer who, in any unoccupied place or premises, executes a search warrant issued under subsection (1) shall, on entering the place or premises or as soon as practicable thereafter, cause a copy of the warrant to be affixed in a prominent place within the place or premises.

R.S., 1985, c. 30 (4th Supp.), s. 12; 1999, c. 18, s. 104; 2000, c. 24, s. 60.

Seizure of other things

13. A peace officer who executes a warrant issued under section 12 may in addition seize any thing that he believes on reasonable grounds will afford evidence of, has been obtained by or used in or is intended to be used in, the commission of an offence against an Act of Parliament, and sections 489.1 to 492 of the *Criminal Code* apply in respect of any thing seized pursuant to this section.

Other warrants

13.1 (1) A judge of the province to whom an application is made under subsection 11(2) may, in a manner provided for by the *Criminal Code*, issue a warrant, other than a warrant referred to in section 12, to use any device or other investigative technique or do anything described in the warrant that would, if not authorized, constitute an unreasonable search or seizure in respect of a person or a person's property.

Criminal Code applies

(2) A warrant issued under subsection (1) may be obtained, issued and executed in the manner prescribed by the *Criminal Code*, with any modifications that the circumstances may require.

Exception

(3) Despite subsection (2), subsections 12(3) and (4) and sections 14 to 16 apply in respect of a warrant issued under subsection (1), and any sections of the *Criminal Code* inconsistent with those provisions do not apply.

2000, c. 24, s. 61.

Report

14. (1) A peace officer who executes a warrant issued under section 12 shall, at least five days before the time of the hearing to consider its execution, file with the court of which the judge who issued the warrant is a member a written report concerning the execution of the warrant and including a general description of the records or things seized, other than a thing seized under section 13.

Copy to Minister

(2) The peace officer shall send a copy of the report to the Minister forthwith after its filing.

Sending abroad

15. (1) At the hearing to consider the execution of a warrant issued under section 12, after having considered any representations of the Minister, the competent authority, the person from whom a record or thing was seized in execution of the warrant and any person who claims to have an interest in the record or thing so seized, the judge who issued the warrant or another judge of the same court may

(a) where the judge is not satisfied that the warrant was executed according to its terms and conditions or where the judge is satisfied that an order should not be made under paragraph (b), order that a record or thing seized in execution of the warrant be returned to

(i) the person from whom it was seized, if possession of it by that person is lawful, or

(ii) the lawful owner or the person who is lawfully entitled to its possession, if the owner or that person is known and possession of the record or thing by the person from whom it was seized is unlawful; or

(b) in any other case, order that a record or thing seized in execution of the warrant be sent to the state or entity mentioned in subsection 11(1) and include in the order any terms and conditions that the judge considers desirable, including terms and conditions

(i) necessary to give effect to the request mentioned in that subsection,

(ii) with respect to the preservation and return to Canada of any record or thing seized, and

(iii) with respect to the protection of the interests of third parties.

Requiring record, etc., at hearing

(2) At the hearing mentioned in subsection (1), the judge may require that a record or thing seized in execution of the warrant be brought before him.

R.S., 1985, c. 30 (4th Supp.), s. 15; 1999, c. 18, s. 105.

Terms and conditions

16. No record or thing seized that has been ordered under section 15 to be sent to the state or entity mentioned in subsection 11(1) shall be so sent until the Minister is satisfied that the state or entity has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the record or thing.

R.S., 1985, c. 30 (4th Supp.), s. 16; 1999, c. 18, s. 106.

Evidence for Use Abroad

Approval of request to obtain evidence

17. (1) When the Minister approves a request of a state or entity to obtain, by means of an order of a judge, evidence regarding an offence, the Minister shall provide a competent authority with any documents or information necessary to apply for the order.

Application for order

(2) The competent authority who is provided with the documents or information shall apply *ex parte* for an order for the gathering of evidence to a judge of the province in which the competent authority believes part or all of the evidence may be found.

R.S., 1985, c. 30 (4th Supp.), s. 17; 1999, c. 18, s. 107; 2000, c. 24, s. 62.

Evidence-gathering order

18. (1) A judge to whom an application is made under subsection 17(2) may make an order for the gathering of evidence, where he is satisfied that there are reasonable grounds to believe that

(a) an offence has been committed; and

(b) evidence of the commission of the offence or information that may reveal the whereabouts of a person who is suspected of having committed the offence will be found in Canada.

Provisions of order

(2) An order made under subsection (1) must provide for the manner in which the evidence is to be obtained in order to give effect to the request mentioned in subsection 17(1) and may

(a) order the examination, on oath or otherwise, of a person named therein, order the person to attend at the place fixed by the person designated under paragraph (c) for the examination and to remain in attendance until he is excused by the person so designated, order the person so named, where appropriate, to make a copy of a record or to make a record from data and to bring the copy or record with him, and order the person so named to bring with him any record or thing in his possession or control, in order to produce them to the person before whom the examination takes place;

(b) order a person named therein to make a copy of a record or to make a record from data and to produce the copy or record to the person designated under paragraph (c), order the person to produce any record or thing in his possession or control to the person so designated and provide, where appropriate, for any affidavit or certificate that, pursuant to the request, is to accompany any copy, record or thing so produced;

(c) designate a person before whom the examination referred to in paragraph (a) is to take place or to whom the copies, records, things, affidavits and certificates mentioned in paragraph (b) are to be produced; and

(d) order a person named in it to answer any question and to produce any record or thing to the person designated under paragraph (c) in accordance with the laws of evidence and procedure in the state or entity that presented the request.

Designation of judge

(3) For greater certainty, under paragraph (2)(c), a judge who makes an order under subsection (1) may designate himself or herself -- either alone or with another person, including another judge -- or may designate another person, including another judge.

Order effective throughout Canada

(4) An order made under subsection (1) may be executed anywhere in Canada.

Terms and conditions of order

(5) An order made under subsection (1) may include any terms or conditions that the judge considers desirable, including those relating to the protection of the interests of the person named therein and of third parties.

Variation

(6) The judge who made the order under subsection (1) or another judge of the same court may vary its terms and conditions.

Refusal to comply

(7) A person named in an order made under subsection (1) may refuse to answer any question or to produce a record or thing to the person designated under paragraph (2)(c) if

(a) answering the question or producing the record or thing would disclose information that is protected by the Canadian law of non-disclosure of information or privilege;

(b) requiring the person to answer the question or to produce the record or thing would constitute a breach of a privilege recognized by a law in force in the state or entity that presented the request; or

(c) answering the question or producing the record or thing would constitute the commission by the person of an offence against a law in force in the state or entity that presented the request.

Execution of order to be completed

(8) If a person refuses to answer a question or to produce a record or thing, the person designated under paragraph (2)(c)

(a) may, if he or she is a judge of a Canadian or foreign court, make immediate rulings on any objections or issues within his or her jurisdiction; or

(b) shall, in any other case, continue the examination and ask any other question or request the production of any other record or thing mentioned in the order.

Statement of reasons for refusal

(9) A person named in an order made under subsection (1) who, under subsection (7), refuses to answer one or more questions or to produce certain records or things shall, within seven days, give to the person designated under paragraph (2)(c), unless that person has already ruled on the objection under paragraph (8)(a), a detailed statement in writing of the reasons on which the person bases the refusal to answer each question that the person refuses to answer or to produce each record or thing that the person refuses to produce.

Expenses

(10) A person named in an order made under subsection (1) is entitled to be paid the travel and living expenses to which the person would be entitled if the person were required to attend as a witness before the judge who made the order.

R.S., 1985, c. 30 (4th Supp.), s. 18; 1999, c. 18, s. 108; 2000, c. 24, s. 63; 2001, c. 32, s. 66.

Report

19. (1) A person designated pursuant to paragraph 18(2)(c) in an order made under subsection 18(1) shall make a report to the judge who made the order or another judge of the same court, accompanied by

- (a) a transcript of every examination held pursuant to the order;
- (b) a general description of every record or thing produced to the person pursuant to the order and, if the judge so requires, a record or thing itself; and
- (c) a copy of every statement given under subsection 18(9) of the reasons for a refusal to answer any question or to produce any record or thing.

Copy to Minister

(2) The person designated pursuant to paragraph 18(2)(c) shall send a copy of the report to the Minister forthwith after it is made.

Refusals

(3) If any reasons contained in a statement given under subsection 18(9) are based on the Canadian law of non-disclosure of information or privilege, a judge to whom a report is made shall determine whether those reasons are well-founded, and, if the judge determines that they are, that determination shall be mentioned in any order that the judge makes under section 20, but if the judge determines that they are not, the judge shall order that the person named in the order made under subsection 18(1) answer the questions or produce the records or things.

Refusals based on foreign law

(4) A copy of every statement given under subsection 18(9) that contains reasons that purport to be based on a law that applies to the state or entity shall be appended to any order that the judge makes under section 20.

R.S., 1985, c. 30 (4th Supp.), s. 19; 1999, c. 18, s. 109; 2000, c. 24, s. 64.

Sending abroad

20. (1) A judge to whom a report is made under subsection 19(1) may order that there be sent to the state or entity the report and any record or thing produced, as well as a copy of the order accompanied by a copy of any statement given under subsection 18(9) that contains reasons that purport to be based on a law that applies to the state or entity, as well as any determination of the judge made under subsection 19(3) that the reasons contained in a statement given under subsection 18(9) are well-founded.

Terms and conditions

(2) An order made under subsection (1) may include any terms or conditions that the judge considers desirable, after having considered any representations of the Minister, the competent authority, the person who produced any record or thing to the person designated under paragraph 18(2)(c) and any person who claims to have an interest in any record or thing so produced, including terms and conditions

- (a) necessary to give effect to the request mentioned in subsection 17(1);
- (b) with respect to the preservation and return to Canada of any record or thing so produced; and
- (c) with respect to the protection of the interests of third parties.

Further execution

(3) The execution of an order made under subsection 18(1) that was not completely executed because of a refusal, by reason of a law that applies to the state or entity, to answer one or more questions or to produce certain records or things to the person designated under paragraph 18(2)(c) may be continued, unless a ruling has already been made on the objection under paragraph 18(8)(a), if a court of the state or entity or a person designated by the state or entity determines that the reasons are not well-founded and the state or entity so advises the Minister.

Leave of judge required

(4) No person named in an order made under subsection 18(1) whose reasons for refusing to answer a question or to produce a record or thing are determined, in accordance with subsection (3), not to be well-founded, or whose objection has been ruled against under paragraph 18(8)(a), shall, during the continued execution of the order or ruling, refuse to answer that question or to produce that record or thing to the person designated under paragraph 18(2)(c), except with the permission of the judge who made the order or ruling or another judge of the same court.

R.S., 1985, c. 30 (4th Supp.), s. 20; 1999, c. 18, s. 110; 2000, c. 24, s. 65.

Terms and conditions

21. No record or thing that has been ordered under section 20 to be sent to the state or entity mentioned in subsection 17(1) shall be so sent until the Minister is satisfied that the state or entity has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the record or thing.

R.S., 1985, c. 30 (4th Supp.), s. 21; 1999, c. 18, s. 111.

Contempt of court

22. (1) A person named in an order made under subsection 18(1) commits a contempt of court if the person refuses to answer a question or to produce a record or thing to the person designated under paragraph 18(2)(c) after a judge has ruled against the objection under paragraph 18(8)(a).

Contempt of court

(2) If no ruling has been made under paragraph 18(8)(a), a person named in an order made under subsection 18(1) commits a contempt of court if the person refuses to answer a question or to produce a record or thing to the person designated under paragraph 18(2)(c)

(a) without giving the detailed statement required by subsection 18(9); or

(b) if the person so named was already asked the same question or requested to produce the same record or thing and the reasons on which that person based the earlier refusal were determined not to be well-founded by

(i) a judge, if the reasons were based on the Canadian law of non-disclosure of information or privilege, or

(ii) a court of the state or entity or by a person designated by the state or entity, if the reasons were based on a law that applies to the state or entity.

R.S., 1985, c. 30 (4th Supp.), s. 22; 1999, c. 18, s. 112; 2000, c. 24, s. 66.

Approval of request to obtain evidence by video link, etc.

22.1 (1) If the Minister approves a request of a state or entity to compel a person to provide evidence or a statement regarding an offence by means of technology that permits the virtual presence of the person in the territory over which the state or entity has jurisdiction, or that permits the parties and the court to hear and examine the witness, the Minister shall provide a competent authority with any documents or information necessary to apply for the order.

Application for order

(2) The competent authority who is provided with the documents or information shall apply *ex parte* to a judge of the province in which the person may be found for an order for the taking of the evidence or statement from the person under subsection (1).

1999, c. 18, s. 113; 2000, c. 24, s. 67.

Order for video link, etc.

22.2 (1) The judge may make the order if satisfied that there are reasonable grounds to believe that

(a) an offence has been committed; and

(b) the state or entity believes that the person's evidence or statement would be relevant to the investigation or prosecution of the offence.

Provisions of order

(2) An order made under subsection (1) shall order the person

(a) to attend at the place fixed by the judge for the taking of the evidence or statement by means of the technology and to remain in attendance until the person is excused by the authorities of the state or entity;

(b) to answer any questions put to the person by the authorities of the state or entity or by any person authorized by those authorities, in accordance with the law that applies to the state or entity;

(c) to make a copy of a record or to make a record from data and to bring the copy or record, when appropriate; and

(d) to bring any record or thing in his or her possession or control, when appropriate, in order to show it to the authorities by means of the technology.

Order effective throughout Canada

(3) An order made under subsection (1) may be executed anywhere in Canada.

Terms and conditions of order

(4) An order made under subsection (1) may include any terms or conditions that the judge considers desirable, including those relating to the protection of the interests of the person named in it and of third parties.

Variation

(5) The judge who made the order under subsection (1) or another judge of the same court may vary its terms and conditions.

Expenses

(6) A person named in an order made under subsection (1) is entitled to be paid the travel and living expenses to which the person would be entitled if the person were required to attend as a witness before the judge who made the order.

1999, c. 18, s. 113; 2000, c. 24, s. 68.

Other laws about witnesses to apply

22.3 For greater certainty, when a witness gives evidence or a statement pursuant to an order made under section 22.2, the evidence or statement shall be given as though the witness were physically before the court or tribunal outside Canada, for the purposes of the laws relating to evidence and procedure but only to the extent that giving the evidence would not disclose information otherwise protected by the Canadian law of non-disclosure of information or privilege.

1999, c. 18, s. 113.

Contempt of court in Canada

22.4 When a witness gives evidence under section 22.2, the Canadian law relating to contempt of court applies with respect to a refusal by the person to answer a question or to produce a record or thing as ordered by the judge under that section.

1999, c. 18, s. 113.

Arrest warrant

23. (1) The judge who made the order under subsection 18(1) or section 22.2 or another judge of the same court may issue a warrant for the arrest of the person named in the order where the judge is satisfied, on an information in writing and under oath, that

(a) the person did not attend or remain in attendance as required by the order or is about to abscond;

(b) the order was personally served on the person; and

(c) in the case of an order made under subsection 18(1), the person is likely to give material evidence and, in the case of an order under section 22.2, the state or entity believes that the testimony of the person would be relevant to the prosecution of the offence.

Warrant effective throughout Canada

(2) A warrant issued under subsection (1) may be executed anywhere in Canada by any peace officer.

Order

(3) A peace officer who arrests a person in execution of a warrant issued under subsection (1) shall, without delay, bring the person or cause the person to be brought before the judge who issued the warrant or another judge of the same court who may, to ensure compliance with the order made under subsection 18(1) or section 22.2, order that the person be detained in custody or released on recognizance, with or without sureties.

Copy of information

(4) A person who is arrested in execution of a warrant issued under subsection (1) is entitled to receive, on request, a copy of the information on which the warrant was issued.

R.S., 1985, c. 30 (4th Supp.), s. 23; 1999, c. 18, s. 114.

Approval of request for examination of place or site

23.1 (1) When the Minister approves a request of a state or entity to examine a place or site in Canada regarding an offence, including by means of the exhumation and examination of a grave, the Minister shall provide a competent authority with any documents or information necessary to apply for an order.

Application for order

(2) The competent authority that is provided with the documents or information shall apply *ex parte* for an order for the examination of a place or site to a judge of the province in which the place or site is located.

Terms and conditions of order

(3) An order may include any terms or conditions that the judge considers desirable, including those relating to the time and manner of its execution, and a requirement for notice.

2000, c. 24, s. 69.

Transfer of Detained Persons

Approval of transfer request

24. (1) When the Minister approves a request of a state or entity to have a detained person who is serving a term of imprisonment in Canada transferred to the state or entity, the Minister shall provide a competent authority with any documents or information necessary to apply for a transfer order.

Application for transfer order

(2) The competent authority who is provided with the documents or information shall apply for a transfer order to a judge of the province in which the person is detained.

Contents of application

(3) An application made under subsection (2) must

(a) state the name of the detained person;

(b) state the place of confinement of the detained person;

(c) designate a person or class of persons into whose custody the detained person is sought to be delivered;

(d) state the place to which the detained person is sought to be transferred;

(e) state the reasons why the detained person is sought to be transferred; and

(f) specify a period of time at or before the expiration of which the detained person is to be returned.

R.S., 1985, c. 30 (4th Supp.), s. 24; 1999, c. 18, s. 115.

Making of transfer order

25. (1) If the judge to whom an application is made under subsection 24(2) is satisfied, having considered, among other things, any documents filed or information given in support of the application, that the detained person consents to the transfer and that the state or entity has requested the transfer for a fixed period, the judge may make a transfer order.

Warrant to bring detained person

(2) A judge to whom an application is made under subsection 24(2) may order that the detained person be brought before him so that that person may be examined with respect to the transfer.

Terms of transfer order

(3) A transfer order made under subsection (1) must

(a) set out the name of the detained person and his place of confinement;

(b) order the person who has custody of the detained person to deliver him into the custody of a person who is designated in the order or who is a member of a class of persons so designated;

(c) order the person receiving the detained person into custody under paragraph (b) to take him or her to the state or entity and, on the return of the detained person to Canada, to return that person to the place of confinement where he or she was when the order was made;

(d) state the reasons for the transfer; and

(e) fix the period of time at or before the expiration of which the detained person must be returned.

Terms and conditions

(4) A transfer order made under subsection (1) may include any terms or conditions that the judge making it considers desirable, including those relating to the protection of the interests of the detained person.

R.S., 1985, c. 30 (4th Supp.), s. 25; 1999, c. 18, s. 116.

Absence deemed imprisonment

26. For the purposes of Parts I and II of the *Corrections and Conditional Release Act* and the *Prisons and Reformatories Act*, a detained person who is not in the place of confinement from which he was delivered pursuant to a transfer order shall be deemed to be in that place of confinement and to have applied himself industriously to the program of the place of confinement, as long as he remains in custody pursuant to the transfer order and is of good behaviour.

R.S., 1985, c. 30 (4th Supp.), s. 26; 1992, c. 20, ss. 215, 216.

Variation of transfer order

27. A judge who made a transfer order or another judge of the same court may vary its terms and conditions.

Copy of order to jailer

28. A copy of a transfer order made under subsection 25(1) and of an order varying it made under section 27 shall be delivered, by the competent authority who applied for the order, to the Minister and to the person in whose custody the detained person was when the transfer order was made.

Exception for young persons

29. Sections 24 to 28 do not apply in respect of a person who, at the time the request mentioned in subsection 24(1) is presented, is a young person within the meaning of the *Youth Criminal Justice Act*.

R.S., 1985, c. 30 (4th Supp.), s. 29; 2002, c. 1, s. 195.

Lending Exhibits

Approval of loan request

30. (1) When the Minister approves the request of a state or entity to have an exhibit that was admitted in evidence in a proceeding in respect of an offence in a court in Canada lent to the state or entity, the Minister shall provide a competent authority with any documents or information necessary to apply for a loan order.

Application for loan order

(2) After having given reasonable notice to the attorney general of the province where the exhibit sought to be lent to the state or entity mentioned in subsection (1) is located and to the parties to the proceeding, the competent authority who is provided with the documents or information shall apply for a loan order to the court that has possession of the exhibit.

Contents of application

(3) An application made under subsection (2) must

- (a) contain a description of the exhibit requested to be lent;
- (b) designate a person or class of persons to whom the exhibit is sought to be given;
- (c) state the reasons for the request, as well as contain a description of any tests that are sought to be performed on the exhibit and a statement of the place where the tests will be performed;
- (d) state the place or places to which the exhibit is sought to be removed; and
- (e) specify a period of time at or before the expiration of which the exhibit is to be returned.

R.S., 1985, c. 30 (4th Supp.), s. 30; 1999, c. 18, s. 117.

Making of loan order

31. (1) If the court to which an application is made under subsection 30(2) is satisfied that the state or entity has requested the loan for a fixed period and has agreed to comply with the terms and conditions that the court proposes to include in any loan order, the court may, after having considered any representations of the persons to whom notice of the application was given in accordance with subsection 30(2), make a loan order.

Terms of loan order

(2) A loan order made under subsection (1) must

- (a) contain a description of the exhibit;
- (b) order the person who has possession of the exhibit to give it to a person designated in the order or who is a member of a class of persons so designated;
- (c) contain a description of any tests thereby authorized to be performed on the exhibit, as well as a statement of the place where the tests must be performed;
- (d) fix the place or places to which the exhibit may be removed; and
- (e) fix the period of time at or before the expiration of which the exhibit must be returned.

Terms and conditions

(3) A loan order made under subsection (1) may include any terms or conditions that the court making it considers desirable, including those relating to the preservation of the exhibit.

R.S., 1985, c. 30 (4th Supp.), s. 31; 1999, c. 18, s. 118.

Variation of loan order

32. A court that made a loan order may vary its terms and conditions.

Copy of order to custodian

33. A copy of a loan order and of an order varying it shall be delivered by the competent authority who applied for the order to the Minister and to the person who had possession of the exhibit when the loan order was made.

Presumption of continuity

34. The burden of proving that an exhibit lent to a state or entity pursuant to a loan order made under subsection 31(1) and returned to Canada is not in the same condition as it was when the loan order was made or that it was tampered with after the loan order was made is on the party who makes that allegation and, in the absence of that proof, the exhibit is deemed to have been continuously in the possession of the court that made the loan order.

R.S., 1985, c. 30 (4th Supp.), s. 34; 1999, c. 18, s. 119.

Appeal

Appeal on question of law

35. An appeal lies, with leave, on a question of law alone, to the court of appeal, within the meaning of section 2 of the *Criminal Code*, from any order or decision of a judge or a court in Canada made under this Act, if the application for leave to appeal is made to a judge of the court of appeal within fifteen days after the order or decision.

R.S., 1985, c. 30 (4th Supp.), s. 35; 1994, c. 44, s. 95.

PART II

ADMISSIBILITY IN CANADA OF EVIDENCE OBTAINED ABROAD PURSUANT TO AN AGREEMENT

Foreign records

36. (1) In a proceeding with respect to which Parliament has jurisdiction, a record or a copy of the record and any affidavit, certificate or other statement pertaining to the record made by a person who has custody or knowledge of the record, sent to the Minister by a state or entity in accordance with a Canadian request, is not inadmissible in evidence by reason only that a statement contained in the record, copy, affidavit, certificate or other statement is hearsay or a statement of opinion.

Probative value

(2) For the purpose of determining the probative value of a record or a copy of a record admitted in evidence under this Act, the trier of fact may examine the record or copy, receive evidence orally or by affidavit, or by a certificate or other statement pertaining to the record in which a person attests that the certificate or statement is made in conformity with the laws that apply to a state or entity, whether or not the certificate or statement is in the form of an affidavit attested to before an official of the state or entity, including evidence as to the circumstances in which the information contained in the record or copy was written, stored or reproduced, and draw any reasonable inference from the form or content of the record or copy.

R.S., 1985, c. 30 (4th Supp.), s. 36; 1994, c. 44, s. 96; 1999, c. 18, s. 120.

Foreign things

37. In a proceeding with respect to which Parliament has jurisdiction, a thing and any affidavit, certificate or other statement pertaining to the thing made by a person in a state or entity as to the identity and possession of the thing from the time it was obtained until its sending to a competent authority in Canada by the state or entity in accordance with a Canadian request, are not inadmissible in evidence by reason only that the affidavit, certificate or other statement contains hearsay or a statement of opinion.

R.S., 1985, c. 30 (4th Supp.), s. 37; 1994, c. 44, s. 97; 1999, c. 18, s. 120.

Status of certificate

38. (1) An affidavit, certificate or other statement mentioned in section 36 or 37 is, in the absence of evidence to the contrary, proof of the statements contained therein without proof of the signature or official character of the person appearing to have signed the affidavit, certificate or other statement.

Notice

(2) Unless the court decides otherwise, in a proceeding with respect to which Parliament has jurisdiction, no record or copy thereof, no thing and no affidavit, certificate or other statement mentioned in section 36 or 37 shall be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced seven days notice, excluding holidays, of that intention, accompanied by a copy of the record, copy, affidavit, certificate or other statement and unless, in the case of a thing, the party intending to produce it has made it available for inspection by the party against whom it is intended to be produced during the five days following a request by that party that it be made so available.

Service abroad

39. The service of a document in the territory over which the state or entity has jurisdiction may be proved by affidavit of the person who served it.

R.S., 1985, c. 30 (4th Supp.), s. 39; 1999, c. 18, s. 121.

PART III

IMPLEMENTATION OF AGREEMENTS IN CANADA

Special Authorization to Come Into Canada

Special authorization

40. (1) The Minister may, in order to give effect to a request of a Canadian competent authority, authorize a person in a state or entity who is inadmissible under the *Immigration and Refugee Protection Act* to come into Canada at a place designated by the Minister and to go to and remain in a place in Canada so designated for the period of time specified by the Minister, and the Minister may make the authorization subject to any conditions that the Minister considers desirable.

Variation of authorization

(2) The Minister may vary the terms of an authorization granted under subsection (1) and, in particular, may extend the period of time during which the person is authorized to remain in a place in Canada.

Non-compliance with conditions of authorization

(3) A person to whom an authorization is granted under subsection (1) who is found in a place in Canada other than the place designated in the authorization or in any place in Canada after the expiration of the period of time specified in the authorization or who fails to comply with some other condition of the authorization shall, for the purposes of the *Immigration and Refugee Protection Act*, be deemed to be a person who entered Canada as a temporary resident and remains after the period authorized for their stay.

R.S., 1985, c. 30 (4th Supp.), s. 40; 1999, c. 18, s. 123; 2001, c. 27, s. 261.

Safe conduct

41. (1) A person who is in Canada pursuant to a request to give evidence in a proceeding or to give assistance in relation to an investigation or proceeding

(a) may not be detained, prosecuted or punished in Canada for any act or omission that occurred before the person's departure from the state or entity pursuant to the request;

(b) is not subject to civil process in respect of any act or omission that occurred before the person's departure from the state or entity pursuant to the request; and

(c) may not be required to give evidence in any proceeding in Canada other than the proceeding to which the request relates.

Limitation

(2) Subsection (1) ceases to apply to a person who is in Canada pursuant to a request when the person leaves Canada or has the opportunity to leave Canada but remains in Canada for a purpose other than fulfilling the request.

R.S., 1985, c. 30 (4th Supp.), s. 41; 1999, c. 18, s. 124.

Detention in Canada

Detention of transferred person

42. (1) When the Minister, in order to give effect to a request of a Canadian competent authority, authorizes a person who is detained in a state or entity to be transferred to Canada for a period of time specified by the Minister, a judge of the province to which the person is to be transferred may make an order for the detention of the person anywhere in Canada and for the return of the person to the state or entity.

Paramourcy of detention order

(2) An order made under subsection (1) is paramount to any order made, in respect of anything that occurred before the person is transferred to Canada, by a Canadian court, a judge of a Canadian court, a Canadian justice of the peace or any other person who has power in Canada to compel the appearance of another person.

Variation of detention order

(3) The judge who made the detention order or another judge of the same court may vary its terms and conditions and, in particular, may extend the duration of the detention.

R.S., 1985, c. 30 (4th Supp.), s. 42; 1999, c. 18, s. 125.

Determination of the Validity of Refusals

Powers of judge

43. When a Canadian request is presented to a state or entity and a person in the state or entity refuses to answer one or more questions or to give up certain records or things by reason of a law in force in Canada, a judge may determine the validity of the refusal on application made, on reasonable notice to the person, by a Canadian competent authority.

R.S., 1985, c. 30 (4th Supp.), s. 43; 1999, c. 18, s. 126.

Privilege for Foreign Records

Privilege

44. (1) Subject to subsection 38(2), a record sent to the Minister by a state or entity in accordance with a Canadian request is privileged and no person shall disclose to anyone the record or its purport or the contents of the record or any part of it before the record, in compliance with the conditions on which it was so sent, is made public or disclosed in the course or for the purpose of giving evidence.

Idem

(2) No person in possession of a record mentioned in subsection (1) or of a copy thereof, or who has knowledge of any information contained in the record, shall be required, in connection with any legal proceedings, to produce the record or copy or to give evidence relating to any information that is contained therein.

R.S., 1985, c. 30 (4th Supp.), s. 44; 1999, c. 18, s. 127.

PART IV

CONSEQUENTIAL AMENDMENTS AND COMING INTO FORCE

Criminal Code

45. [Amendment]

Crown Liability Act

46. [Amendment]

Immigration Act

47. and 48. [Amendments]

Coming into Force

Coming into force

*49. This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

*[Note: Act in force October 1, 1988, *see* SI/88-199.]

SCHEDULE

(Sections 2, 4, 6 and 8)

DESIGNATED STATES OR ENTITIES

The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, established by Resolution 955 (1994) of the Security Council of the United Nations

The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law Committed in the Territory of the Former Yugoslavia since 1991, established by Resolution 827 (1993) of the Security Council of the United Nations

R.S., 1985, c. 30 (4th Supp.), Sch.; SOR/90-704; SOR/93-446; SOR/98-382; 1999, c. 18, s. 128.

E/NL.2004/21

CONTROLLED DRUGS AND SUBSTANCES ACT¹

1996, c. 19

An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act² in consequence thereof

[Assented to 20th June, 1996]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Controlled Drugs and Substances Act*.

INTERPRETATION

Definitions

2. (1) In this Act,

"adjudicator"

"adjudicator" means a person appointed or employed under the *Public Service Employment Act* who performs the duties and functions of an adjudicator under this Act and the regulations;

"analogue"

"analogue" means a substance that, in relation to a controlled substance, has a substantially similar chemical structure;

"analyst"

"analyst" means a person who is designated as an analyst under section 44;

"Attorney General"

"Attorney General" means

(a) the Attorney General of Canada, and includes their lawful deputy, or

(b) with respect to proceedings commenced at the instance of the government of a province and conducted by or on behalf of that government, the Attorney General of that province, and includes their lawful deputy;

"controlled substance"

"controlled substance" means a substance included in Schedule I, II, III, IV or V;

"designated substance offence"

"designated substance offence" means

(a) an offence under Part I, except subsection 4(1), or

(b) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a);

¹ Note by the Secretariat: this is an updated version.

² Note by the Secretariat: E/NL.1980/45

"inspector"

"inspector" means a person who is designated as an inspector under section 30;

"judge"

"judge" means a judge as defined in section 552 of the *Criminal Code* or a judge of a superior court of criminal jurisdiction;

"justice"

"justice" has the same meaning as in section 2 of the *Criminal Code*;

"Minister"

"Minister" means the Minister of Health;

"offence-related property"

"offence-related property" means, with the exception of a controlled substance, any property, within or outside Canada,

(a) by means of or in respect of which a designated substance offence is committed,

(b) that is used in any manner in connection with the commission of a designated substance offence, or

(c) that is intended for use for the purpose of committing a designated substance offence;

"possession"

"possession" means possession within the meaning of subsection 4(3) of the *Criminal Code*;

"practitioner"

"practitioner" means a person who is registered and entitled under the laws of a province to practise in that province the profession of medicine, dentistry or veterinary medicine, and includes any other person or class of persons prescribed as a practitioner;

"precursor"

"precursor" means a substance included in Schedule VI;

"prescribed"

"prescribed" means prescribed by the regulations;

"produce"

"produce" means, in respect of a substance included in any of Schedules I to IV, to obtain the substance by any method or process including

(a) manufacturing, synthesizing or using any means of altering the chemical or physical properties of the substance, or

(b) cultivating, propagating or harvesting the substance or any living thing from which the substance may be extracted or otherwise obtained,

and includes offer to produce;

"provide"

"provide" means to give, transfer or otherwise make available in any manner, whether directly or indirectly and whether or not for consideration;

"sell"

"sell" includes offer for sale, expose for sale, have in possession for sale and distribute, whether or not the distribution is made for consideration;

"traffic"

"traffic" means, in respect of a substance included in any of Schedules I to IV,

(a) to sell, administer, give, transfer, transport, send or deliver the substance,

(b) to sell an authorization to obtain the substance, or

(c) to offer to do anything mentioned in paragraph (a) or (b),

otherwise than under the authority of the regulations.

Interpretation

(2) For the purposes of this Act,

(a) a reference to a controlled substance includes a reference to any substance that contains a controlled substance; and

(b) a reference to a controlled substance includes a reference to

(i) all synthetic and natural forms of the substance, and

(ii) any thing that contains or has on it a controlled substance and that is used or intended or designed for use

(A) in producing the substance, or

(B) in introducing the substance into a human body.

Interpretation

(3) For the purposes of this Act, where a substance is expressly named in any of Schedules I to VI, it shall be deemed not to be included in any other of those Schedules.

1996, c. 8, s. 35, c. 19, s. 2; 2001, c. 32, s. 47.

Interpretation

3. (1) Every power or duty imposed under this Act that may be exercised or performed in respect of an offence under this Act may be exercised or performed in respect of a conspiracy, or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under this Act.

Interpretation

(2) For the purposes of sections 16 and 20, a reference to a person who is or was convicted of a designated substance offence includes a reference to an offender who is discharged under section 730 of the *Criminal Code*.

1995, c. 22, s. 18; 1996, c. 19, s. 3.

PART I
OFFENCES AND PUNISHMENT

Particular Offences

Possession of substance

4. (1) Except as authorized under the regulations, no person shall possess a substance included in Schedule I, II or III.

Obtaining substance

(2) No person shall seek or obtain

(a) a substance included in Schedule I, II, III or IV, or

(b) an authorization to obtain a substance included in Schedule I, II, III or IV

from a practitioner, unless the person discloses to the practitioner particulars relating to the acquisition by the person of every substance in those Schedules, and of every authorization to obtain such substances, from any other practitioner within the preceding thirty days.

Punishment

(3) Every person who contravenes subsection (1) where the subject-matter of the offence is a substance included in Schedule I

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding seven years; or

(b) is guilty of an offence punishable on summary conviction and liable

(i) for a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both, and

(ii) for a subsequent offence, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year, or to both.

Punishment

(4) Subject to subsection (5), every person who contravenes subsection (1) where the subject-matter of the offence is a substance included in Schedule II

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years less a day; or

(b) is guilty of an offence punishable on summary conviction and liable

(i) for a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both, and

(ii) for a subsequent offence, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year, or to both.

Punishment

(5) Every person who contravenes subsection (1) where the subject-matter of the offence is a substance included in Schedule II in an amount that does not exceed the amount set out for that substance in Schedule VIII is guilty of an offence punishable on summary conviction and liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both.

Punishment

(6) Every person who contravenes subsection (1) where the subject-matter of the offence is a substance included in Schedule III

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding three years; or

(b) is guilty of an offence punishable on summary conviction and liable

(i) for a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both, and

(ii) for a subsequent offence, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year, or to both.

Punishment

(7) Every person who contravenes subsection (2)

(a) is guilty of an indictable offence and liable

(i) to imprisonment for a term not exceeding seven years, where the subject-matter of the offence is a substance included in Schedule I,

(ii) to imprisonment for a term not exceeding five years less a day, where the subject-matter of the offence is a substance included in Schedule II,

(iii) to imprisonment for a term not exceeding three years, where the subject-matter of the offence is a substance included in Schedule III, or

(iv) to imprisonment for a term not exceeding eighteen months, where the subject-matter of the offence is a substance included in Schedule IV; or

(b) is guilty of an offence punishable on summary conviction and liable

(i) for a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both, and

(ii) for a subsequent offence, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year, or to both.

Determination of amount

(8) For the purposes of subsection (5) and Schedule VIII, the amount of the substance means the entire amount of any mixture or substance, or the whole of any plant, that contains a detectable amount of the substance.

Trafficking in substance

5. (1) No person shall traffic in a substance included in Schedule I, II, III or IV or in any substance represented or held out by that person to be such a substance.

Possession for purpose of trafficking

(2) No person shall, for the purpose of trafficking, possess a substance included in Schedule I, II, III or IV.

Punishment

(3) Every person who contravenes subsection (1) or (2)

- (a) subject to subsection (4), where the subject-matter of the offence is a substance included in Schedule I or II, is guilty of an indictable offence and liable to imprisonment for life;
- (b) where the subject-matter of the offence is a substance included in Schedule III,
 - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, or
 - (ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months; and
- (c) where the subject-matter of the offence is a substance included in Schedule IV,
 - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding three years, or
 - (ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding one year.

Punishment in respect of specified substance

(4) Every person who contravenes subsection (1) or (2), where the subject-matter of the offence is a substance included in Schedule II in an amount that does not exceed the amount set out for that substance in Schedule VII, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years less a day.

Interpretation

(5) For the purposes of applying subsection (3) or (4) in respect of an offence under subsection (1), a reference to a substance included in Schedule I, II, III or IV includes a reference to any substance represented or held out to be a substance included in that Schedule.

Interpretation

(6) For the purposes of subsection (4) and Schedule VII, the amount of the substance means the entire amount of any mixture or substance, or the whole of any plant, that contains a detectable amount of the substance.

Importing and exporting

6. (1) Except as authorized under the regulations, no person shall import into Canada or export from Canada a substance included in Schedule I, II, III, IV, V or VI.

Possession for the purpose of exporting

(2) Except as authorized under the regulations, no person shall possess a substance included in Schedule I, II, III, IV, V or VI for the purpose of exporting it from Canada.

Punishment

- (3) Every person who contravenes subsection (1) or (2)
 - (a) where the subject-matter of the offence is a substance included in Schedule I or II, is guilty of an indictable offence and liable to imprisonment for life;
 - (b) where the subject-matter of the offence is a substance included in Schedule III or VI,
 - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, or
 - (ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months; and

- (c) where the subject-matter of the offence is a substance included in Schedule IV or V,
 - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding three years, or
 - (ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding one year.

Production of substance

7. (1) Except as authorized under the regulations, no person shall produce a substance included in Schedule I, II, III or IV.

Punishment

(2) Every person who contravenes subsection (1)

- (a) where the subject-matter of the offence is a substance included in Schedule I or II, other than cannabis (marihuana), is guilty of an indictable offence and liable to imprisonment for life;
- (b) where the subject-matter of the offence is cannabis (marihuana), is guilty of an indictable offence and liable to imprisonment for a term not exceeding seven years;
- (c) where the subject-matter of the offence is a substance included in Schedule III,
 - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, or
 - (ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months; and
- (d) where the subject-matter of the offence is a substance included in Schedule IV,
 - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding three years, or
 - (ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding one year.

8. and 9. [Repealed, 2001, c. 32, s. 48]

Sentencing

Purpose of sentencing

10. (1) Without restricting the generality of the *Criminal Code*, the fundamental purpose of any sentence for an offence under this Part is to contribute to the respect for the law and the maintenance of a just, peaceful and safe society while encouraging rehabilitation, and treatment in appropriate circumstances, of offenders and acknowledging the harm done to victims and to the community.

Circumstances to take into consideration

- (2) If a person is convicted of a designated substance offence, the court imposing sentence on the person shall consider any relevant aggravating factors including that the person
- (a) in relation to the commission of the offence,
 - (i) carried, used or threatened to use a weapon,
 - (ii) used or threatened to use violence,

(iii) trafficked in a substance included in Schedule I, II, III or IV or possessed such a substance for the purpose of trafficking, in or near a school, on or near school grounds or in or near any other public place usually frequented by persons under the age of eighteen years, or

(iv) trafficked in a substance included in Schedule I, II, III or IV, or possessed such a substance for the purpose of trafficking, to a person under the age of eighteen years;

(b) was previously convicted of a designated substance offence; or

(c) used the services of a person under the age of eighteen years to commit, or involved such a person in the commission of, a designated substance offence.

Reasons (3) If, under subsection (1), the court is satisfied of the existence of one or more of the aggravating factors enumerated in paragraphs (2)(a) to (c), but decides not to sentence the person to imprisonment, the court shall give reasons for that decision.

1996, c. 19, s. 10; 1999, c. 5, s. 49.

PART II

ENFORCEMENT

Search, Seizure and Detention

Information for search warrant

11. (1) A justice who, on *ex parte* application, is satisfied by information on oath that there are reasonable grounds to believe that

(a) a controlled substance or precursor in respect of which this Act has been contravened,

(b) any thing in which a controlled substance or precursor referred to in paragraph (a) is contained or concealed,

(c) offence-related property, or

(d) any thing that will afford evidence in respect of an offence under this Act

is in a place may, at any time, issue a warrant authorizing a peace officer, at any time, to search the place for any such controlled substance, precursor, property or thing and to seize it.

Application of section 487.1 of the *Criminal Code*

(2) For the purposes of subsection (1), an information may be submitted by telephone or other means of telecommunication in accordance with section 487.1 of the *Criminal Code*, with such modifications as the circumstances require.

Execution in another province

(3) A justice may, where a place referred to in subsection (1) is in a province other than that in which the justice has jurisdiction, issue the warrant referred to in that subsection and the warrant may be executed in the other province after it has been endorsed by a justice having jurisdiction in that other province.

Effect of endorsement

(4) An endorsement that is made on a warrant as provided for in subsection (3) is sufficient authority to any peace officer to whom it was originally directed and to all peace officers within the jurisdiction of the justice by whom it is endorsed to execute the warrant and to deal with the things seized in accordance with the law.

Search of person and seizure

(5) Where a peace officer who executes a warrant issued under subsection (1) has reasonable grounds to believe that any person found in the place set out in the warrant has on their person any controlled substance, precursor, property or thing set out in the warrant, the peace officer may search the person for the controlled substance, precursor, property or thing and seize it.

Seizure of things not specified

(6) A peace officer who executes a warrant issued under subsection (1) may seize, in addition to the things mentioned in the warrant,

- (a) any controlled substance or precursor in respect of which the peace officer believes on reasonable grounds that this Act has been contravened;
- (b) any thing that the peace officer believes on reasonable grounds to contain or conceal a controlled substance or precursor referred to in paragraph (a);
- (c) any thing that the peace officer believes on reasonable grounds is offence-related property; or
- (d) any thing that the peace officer believes on reasonable grounds will afford evidence in respect of an offence under this Act.

Where warrant not necessary

(7) A peace officer may exercise any of the powers described in subsection (1), (5) or (6) without a warrant if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would be impracticable to obtain one.

Seizure of additional things

(8) A peace officer who executes a warrant issued under subsection (1) or exercises powers under subsection (5) or (7) may seize, in addition to the things mentioned in the warrant and in subsection (6), any thing that the peace officer believes on reasonable grounds has been obtained by or used in the commission of an offence or that will afford evidence in respect of an offence.

Assistance and use of force

12. For the purpose of exercising any of the powers described in section 11, a peace officer may

- (a) enlist such assistance as the officer deems necessary; and
- (b) use as much force as is necessary in the circumstances.

Sections 489.1 and 490 of the *Criminal Code* applicable

13. (1) Subject to subsections (2) and (3), sections 489.1 and 490 of the *Criminal Code* apply to any thing seized under this Act.

Sections 489.1 and 490 of the *Criminal Code* applicable

(2) Where a thing seized under this Act is offence-related property, sections 489.1 and 490 of the *Criminal Code* apply subject to sections 16 to 22 of this Act.

Provisions of this Act applicable

(3) Where a controlled substance is seized under this Act or any other Act of Parliament or pursuant to a power of seizure at common law, this Act and the regulations apply in respect of that substance.

Report to justice

(4) Subject to the regulations, every peace officer who, pursuant to section 11, seizes a controlled substance shall, as soon as is reasonable in the circumstances after the seizure,

- (a) prepare a report identifying the place searched, the controlled substance and the location where it is being detained;
- (b) cause the report to be filed with the justice who issued the warrant or another justice for the same territorial division or, where by reason of exigent circumstances a warrant was not issued, a justice who would have had jurisdiction to issue a warrant; and
- (c) cause a copy of the report to be sent to the Minister.

Report to justice

(5) A report in Form 5.2 of the *Criminal Code* may be filed as a report for the purposes of subsection (4).

Recognizance

(6) Where, pursuant to this section, an order is made under paragraph 490(9)(c) of the *Criminal Code* for the return of any offence-related property seized under this Act, the judge or justice making the order may require the applicant for the order to enter into a recognizance before the judge or justice, with or without sureties, in such amount and with such conditions, if any, as the judge or justice directs and, where the judge or justice considers it appropriate, require the applicant to deposit with the judge or justice such sum of money or other valuable security as the judge or justice directs.

Restraint Orders

Application for restraint order

14. (1) The Attorney General may make an application in accordance with this section for a restraint order under this section in respect of any offence-related property.

Procedure

(2) An application made under subsection (1) for a restraint order in respect of any offence-related property may be made *ex parte* and shall be made in writing to a judge and be accompanied by an affidavit sworn on the information and belief of the Attorney General or any other person deposing to the following matters:

- (a) the offence against this Act to which the offence-related property relates;
- (b) the person who is believed to be in possession of the offence-related property; and
- (c) a description of the offence-related property.

Restraint order

(3) Where an application for a restraint order is made to a judge under subsection (1), the judge may, if satisfied that there are reasonable grounds to believe that the property is offence-related property, make a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, the offence-related property specified in the order otherwise than in such manner as may be specified in the order.

Property outside Canada

(4) A restraint order may be issued under this section in respect of property situated outside Canada, with any modifications that the circumstances require.

Conditions

(5) A restraint order made by a judge under this section may be subject to such reasonable conditions as the judge thinks fit.

Order in writing

(6) A restraint order made under this section shall be made in writing.

Service of order

(7) A copy of a restraint order made under this section shall be served on the person to whom the order is addressed in such manner as the judge making the order directs or in accordance with the rules of the court.

Registration of order

(8) A copy of a restraint order made under this section shall be registered against any property in accordance with the laws of the province in which the property is situated.

Order continues in force

(9) A restraint order made under this section remains in effect until

(a) an order is made under subsection 19(3) or 19.1(3) of this Act or subsection 490(9) or (11) of the *Criminal Code* in relation to the property; or

(b) an order of forfeiture of the property is made under subsection 16(1) or 17(2) of this Act or section 490 of the *Criminal Code*.

Offence

(10) Any person on whom a restraint order made under this section is served in accordance with this section and who, while the order is in force, acts in contravention of or fails to comply with the order is guilty of an indictable offence or an offence punishable on summary conviction.

1996, c. 19, ss. 14, 93.2; 2001, c. 32, s. 49.

Management order

14.1 (1) On application of the Attorney General or of any other person with the written consent of the Attorney General, a justice in the case of offence-related property seized under section 11, or a judge in the case of offence-related property restrained under section 14, may, where he or she is of the opinion that the circumstances so require,

(a) appoint a person to take control of and to manage or otherwise deal with all or part of the property in accordance with the directions of the judge or justice; and

(b) require any person having possession of that property to give possession of the property to the person appointed under paragraph (a).

Appointment of Minister of Public Works and Government Services

(2) When the Attorney General of Canada so requests, a judge or justice appointing a person under subsection (1) shall appoint the Minister of Public Works and Government Services.

Power to manage

(3) The power to manage or otherwise deal with property under subsection (1) includes

(a) in the case of perishable or rapidly depreciating property, the power to make an interlocutory sale of that property; and

(b) in the case of property that has little or no value, the power to destroy that property.

Application for destruction order

(4) Before a person appointed to manage property destroys property that has little or no value, he or she shall apply to a court for a destruction order.

Notice

(5) Before making a destruction order in relation to any property, a court shall require notice in accordance with subsection (6) to be given to, and may hear, any person who, in the opinion of the court, appears to have a valid interest in the property.

Manner of giving notice

(6) A notice shall

(a) be given or served in the manner that the court directs or that may be specified in the rules of the court; and

(b) be of any duration that the court considers reasonable or that may be specified in the rules of the court.

Order

(7) A court may order that the property be destroyed if it is satisfied that the property has little or no value, whether financial or other.

When management order ceases to have effect

(8) A management order ceases to have effect when the property that is the subject of the management order is returned in accordance with the law to an applicant or forfeited to Her Majesty.

Application to vary conditions

(9) The Attorney General may at any time apply to the judge or justice to cancel or vary any condition to which a management order is subject but may not apply to vary an appointment made under subsection (2).

2001, c. 32, s. 50.

Sections 489.1 and 490 of the *Criminal Code* applicable

15. (1) Subject to sections 16 to 22, sections 489.1 and 490 of the *Criminal Code* apply, with such modifications as the circumstances require, to any offence-related property that is the subject-matter of a restraint order made under section 14.

Recognizance

(2) Where, pursuant to subsection (1), an order is made under paragraph 490(9)(c) of the *Criminal Code* for the return of any offence-related property that is the subject of a restraint order under section 14, the judge or justice making the order may require the applicant for the order to enter into a recognizance before the judge or justice, with or without sureties, in such amount and with such conditions, if any, as the judge or justice directs and, where the judge or justice considers it appropriate, require the applicant to deposit with the judge or justice such sum of money or other valuable security as the judge or justice directs.

Forfeiture of Offence-related Property

Order of forfeiture of property on conviction

16. (1) Subject to sections 18 to 19.1, where a person is convicted of a designated substance offence and, on application of the Attorney General, the court is satisfied, on a balance of probabilities, that any property is offence-related property and that the offence was committed in relation to that property, the court shall

(a) in the case of a substance included in Schedule VI, order that the substance be forfeited to Her Majesty in right of Canada and disposed of by the Minister as the Minister thinks fit; and

(b) in the case of any other offence-related property,

(i) where the prosecution of the offence was commenced at the instance of the government of a province and conducted by or on behalf of that government, order that the property be forfeited to Her Majesty in right of that province and disposed of by the Attorney General or Solicitor General of that province in accordance with the law, and

(ii) in any other case, order that the property be forfeited to Her Majesty in right of Canada and disposed of by such member of the Queen's Privy Council for Canada as may be designated for the purposes of this subparagraph in accordance with the law.

Property related to other offences

(2) Subject to sections 18 to 19.1, where the evidence does not establish to the satisfaction of the court that the designated substance offence of which a person has been convicted was committed in relation to property in respect of which an order of forfeiture would otherwise be made under subsection (1) but the court is satisfied, beyond a reasonable doubt, that that property is offence-related property, the court may make an order of forfeiture under subsection (1) in relation to that property.

Property outside Canada

(2.1) An order may be issued under this section in respect of property situated outside Canada, with any modifications that the circumstances require.

Appeal

(3) A person who has been convicted of a designated substance offence or the Attorney General may appeal to the court of appeal from an order or a failure to make an order under subsection (1) as if the appeal were an appeal against the sentence imposed on the person in respect of the offence.

1996, c. 19, s. 16; 2001, c. 32, s. 51.

Application for *in rem* forfeiture

17. (1) Where an information has been laid in respect of a designated substance offence, the Attorney General may make an application to a judge for an order of forfeiture under subsection (2).

Order of forfeiture of property

(2) Subject to sections 18 to 19.1, where an application is made to a judge under subsection (1) and the judge is satisfied

(a) beyond a reasonable doubt that any property is offence-related property,

(b) that proceedings in respect of a designated substance offence in relation to the property referred to in paragraph (a) were commenced, and

(c) that the accused charged with the designated substance offence has died or absconded, the judge shall order that the property be forfeited and disposed of in accordance with subsection (4).

Accused deemed absconded

(3) For the purposes of subsection (2), an accused shall be deemed to have absconded in connection with a designated substance offence if

- (a) an information has been laid alleging the commission of the offence by the accused,
- (b) a warrant for the arrest of the accused has been issued in relation to that information, and
- (c) reasonable attempts to arrest the accused pursuant to the warrant have been unsuccessful during a period of six months beginning on the day on which the warrant was issued,

and the accused shall be deemed to have so absconded on the last day of that six month period.

Who may dispose of forfeited property

(4) For the purposes of subsection (2),

(a) in the case of a substance included in Schedule VI, the judge shall order that the substance be forfeited to Her Majesty in right of Canada and disposed of by the Minister as the Minister thinks fit; and

(b) in the case of any other offence-related property,

(i) where the proceedings referred to in paragraph (2)(b) were commenced at the instance of the government of a province, the judge shall order that the property be forfeited to Her Majesty in right of that province and disposed of by the Attorney General or Solicitor General of that province in accordance with the law, and

(ii) in any other case, the judge shall order that the property be forfeited to Her Majesty in right of Canada and disposed of by such member of the Queen's Privy Council for Canada as may be designated for the purposes of this subparagraph in accordance with the law.

Property outside Canada

(5) An order may be issued under this section in respect of property situated outside Canada, with any modifications that the circumstances require.

1996, c. 19, s. 17; 2001, c. 32, s. 52.

Voidable transfers

18. A court may, before ordering that offence-related property be forfeited under subsection 16(1) or 17(2), set aside any conveyance or transfer of the property that occurred after the seizure of the property, or the making of a restraint order in respect of the property, unless the conveyance or transfer was for valuable consideration to a person acting in good faith.

Notice

19. (1) Before making an order under subsection 16(1) or 17(2) in relation to any property, a court shall require notice in accordance with subsection (2) to be given to, and may hear, any person who, in the opinion of the court, appears to have a valid interest in the property.

Manner of giving notice

(2) A notice given under subsection (1) shall

(a) be given or served in such manner as the court directs or as may be specified in the rules of the court;

(b) be of such duration as the court considers reasonable or as may be specified in the rules of the court; and

(c) set out the designated substance offence charged and a description of the property.

Order of restoration of property (3) Where a court is satisfied that any person, other than

(a) a person who was charged with a designated substance offence, or

(b) a person who acquired title to or a right of possession of the property from a person referred to in paragraph (a) under circumstances that give rise to a reasonable inference that the title or right was transferred for the purpose of avoiding the forfeiture of the property,

is the lawful owner or is lawfully entitled to possession of any property or any part of any property that would otherwise be forfeited pursuant to an order made under subsection 16(1) or 17(2) and that the person appears innocent of any complicity in an offence referred to in paragraph (a) or of any collusion in relation to such an offence, the court may order that the property or part be returned to that person.

Notice

19.1 (1) Where all or part of offence-related property that would otherwise be forfeited under subsection 16(1) or 17(2) is a dwelling-house, before making an order of forfeiture, a court shall require notice in accordance with subsection (2) to be given to, and may hear, any person who resides in the dwelling-house and is a member of the immediate family of the person charged with or convicted of the indictable offence under this Act in relation to which the property would be forfeited.

Manner of giving notice

(2) A notice shall

(a) be given or served in the manner that the court directs or that may be specified in the rules of the court;

(b) be of any duration that the court considers reasonable or that may be specified in the rules of the court; and

(c) set out the offence charged and a description of the property.

Non-forfeiture of real property

(3) Subject to an order made under subsection 19(3), if a court is satisfied that the impact of an order of forfeiture made under subsection 16(1) or 17(2) in respect of real property would be disproportionate to the nature and gravity of the offence, the circumstances surrounding the commission of the offence and the criminal record, if any, of the person charged with or convicted of the offence, as the case may be, it may decide not to order the forfeiture of the property or part of the property and may revoke any restraint order made in respect of that property or part.

Factors in relation to dwelling-house

(4) Where all or part of the property that would otherwise be forfeited under subsection 16(1) or 17(2) is a dwelling-house, when making a decision under subsection (3), the court shall also consider

(a) the impact of an order of forfeiture on any member of the immediate family of the person charged with or convicted of the offence, if the dwelling-house was the member's principal residence at the time the charge was laid and continues to be the member's principal residence; and

(b) whether the member referred to in paragraph (a) appears innocent of any complicity in the offence or of any collusion in relation to the offence.

2001, c. 32, s. 53.

Application

20. (1) Where any offence-related property is forfeited to Her Majesty pursuant to an order made under subsection 16(1) or 17(2), any person who claims an interest in the property, other than

(a) in the case of property forfeited pursuant to an order made under subsection 16(1), a person who was convicted of the designated substance offence in relation to which the property was forfeited,

(b) in the case of property forfeited pursuant to an order made under subsection 17(2), a person who was charged with the designated substance offence in relation to which the property was forfeited, or

(c) a person who acquired title to or a right of possession of the property from a person referred to in paragraph (a) or (b) under circumstances that give rise to a reasonable inference that the title or right was transferred from that person for the purpose of avoiding the forfeiture of the property,

may, within thirty days after the forfeiture, apply by notice in writing to a judge for an order under subsection (4).

Fixing day for hearing

(2) The judge to whom an application is made under subsection (1) shall fix a day not less than thirty days after the date of the filing of the application for the hearing of the application.

Notice

(3) An applicant shall serve a notice of the application made under subsection (1) and of the hearing of it on the Attorney General at least fifteen days before the day fixed for the hearing.

Order declaring interest not affected by forfeiture

(4) Where, on the hearing of an application made under subsection (1), the judge is satisfied that the applicant

(a) is not a person referred to in paragraph (1)(a), (b) or (c) and appears innocent of any complicity in any designated substance offence that resulted in the forfeiture of the property or of any collusion in relation to such an offence, and

(b) exercised all reasonable care to be satisfied that the property was not likely to have been used in connection with the commission of an unlawful act by the person who was permitted by the applicant to obtain possession of the property or from whom the applicant obtained possession or, where the applicant is a mortgagee or lienholder, by the mortgagor or lien-giver,

the judge may make an order declaring that the interest of the applicant is not affected by the forfeiture and declaring the nature and the extent or value of the interest.

Appeal from order made under subsection

(4) (5) An applicant or the Attorney General may appeal to the court of appeal from an order made under subsection (4), and the provisions of Part XXI of the *Criminal Code* with respect to procedure on appeals apply, with such modifications as the circumstances require, in respect of appeals under this subsection.

Return of property

(6) The Minister shall, on application made to the Minister by any person in respect of whom a judge has made an order under subsection (4), and where the periods with respect to the taking of appeals from that order have expired and any appeal from that order taken under subsection (5) has been determined, direct that

- (a) the property, or the part of it to which the interest of the applicant relates, be returned to the applicant; or
- (b) an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.

Appeals from orders under subsection 17(2)

21. Any person who, in their opinion, is aggrieved by an order made under subsection 17(2) may appeal from the order as if the order were an appeal against conviction or against a judgment or verdict of acquittal, as the case may be, under Part XXI of the *Criminal Code*, and that Part applies, with such modifications as the circumstances require, in respect of such an appeal.

Suspension of order pending appeal

22. Notwithstanding anything in this Act, the operation of an order made in respect of property under subsection 16(1), 17(2) or 20(4) is suspended pending

- (a) any application made in respect of the property under any of those provisions or any other provision of this or any other Act of Parliament that provides for restoration or forfeiture of the property, or
- (b) any appeal taken from an order of forfeiture or restoration in respect of the property,

and the property shall not be disposed of or otherwise dealt with until thirty days have expired after an order is made under any of those provisions.

23. [Repealed, 2001, c. 32, s. 54]

PART III

DISPOSAL OF CONTROLLED SUBSTANCES

Application for return of substance

24. (1) Where a controlled substance has been seized, found or otherwise acquired by a peace officer or an inspector, any person may, within sixty days after the date of the seizure, finding or acquisition, on prior notification being given to the Attorney General in the prescribed manner, apply, by notice in writing to a justice in the jurisdiction in which the substance is being detained, for an order to return that substance to the person.

Order to return substance forthwith

(2) Where, on the hearing of an application made under subsection (1), a justice is satisfied that an applicant is the lawful owner or is lawfully entitled to possession of the controlled substance and the Attorney General does not indicate that the substance or a portion of it may be required for the purposes of a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament, the justice shall, subject to subsection (5), order that the substance or the portion not required for the purposes of the proceeding be returned forthwith to the applicant.

Order to return substance at specified time

(3) Where, on the hearing of an application made under subsection (1), a justice is satisfied that an applicant is the lawful owner or is lawfully entitled to possession of the controlled substance but the Attorney General indicates that the substance or a portion of it may be required for the purposes of a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament, the justice shall, subject to subsection (5), order that the substance or the portion required for the purposes of the proceeding be returned to the applicant

(a) on the expiration of one hundred and eighty days after the application was made, if no proceeding in relation to the substance has been commenced before that time; or

(b) on the final conclusion of the proceeding or any other proceeding in relation to the substance, where the applicant is not found guilty in those proceedings of an offence committed in relation to the substance.

Order to return substance refused

(4) Where, on the hearing of an application made under subsection (1), a justice is not satisfied that an applicant is the lawful owner or is lawfully entitled to possession of the controlled substance, the justice shall order that the substance or the portion not required for the purposes of a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament be forfeited to Her Majesty to be disposed of or otherwise dealt with in accordance with the regulations or, if there are no applicable regulations, in such manner as the Minister directs.

Payment of compensation in lieu

(5) Where, on the hearing of an application made under subsection (1), a justice is satisfied that an applicant is the lawful owner or is lawfully entitled to possession of a controlled substance, but an order has been made under subsection 26(2) in respect of the substance, the justice shall make an order that an amount equal to the value of the substance be paid to the applicant.

Disposal by Minister where no application

25. Where no application for the return of a controlled substance has been made under subsection 24(1) within sixty days after the date of the seizure, finding or acquisition by a peace officer or inspector and the substance or a portion of it is not required for the purposes of any preliminary inquiry, trial or other proceeding under this Act or any other Act of Parliament, the substance or the portion not required for the purposes of the proceeding shall be delivered to the Minister to be disposed of or otherwise dealt with in accordance with the regulations or, if there are no applicable regulations, in such manner as the Minister directs.

Security, health or safety hazard

26. (1) Where the Minister has reasonable grounds to believe that a controlled substance that has been seized, found or otherwise acquired by a peace officer or inspector constitutes a potential security, public health or safety hazard, the Minister may, on prior notification being given to the Attorney General in the prescribed manner, at any time, make an application, *ex parte*, to a justice for an order that the substance or a portion of it be forfeited to Her Majesty to be disposed of or otherwise dealt with in accordance with the regulations or, if there are no applicable regulations, in such manner as the Minister directs.

Security, health or safety hazard

(2) Where, on the hearing of an application made under subsection (1), a justice is satisfied that there are reasonable grounds to believe that the controlled substance constitutes a potential security, public health or safety hazard, the justice shall order that the substance or any portion not required for the purposes of a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament be forfeited to Her Majesty to be disposed of or otherwise dealt with in accordance with the regulations or, if there are no applicable regulations, in such manner as the Minister directs.

Disposal following proceedings

27. Subject to section 24, where, pursuant to a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament, the court before which the proceedings have been brought is satisfied that any controlled substance that is the subject of proceedings before the court is no longer required by that court or any other court, the court

(a) shall

(i) where it is satisfied that the person from whom the substance was seized came into possession of the substance in accordance with the regulations and continued to deal with it in accordance with the regulations, order that the substance be returned to the person, or

(ii) where it is satisfied that possession of the substance by the person from whom it was seized is unlawful and the person who is lawfully entitled to its possession is known, order that the substance be returned to the person who is the lawful owner or is lawfully entitled to its possession; and

(b) may, where it is not satisfied that the substance should be returned pursuant to subparagraph (i) or (ii) or where possession of the substance by the person from whom it was seized is unlawful and the person who is the lawful owner or is lawfully entitled to its possession is not known, order that the substance be forfeited to Her Majesty to be disposed of or otherwise dealt with in accordance with the regulations or, if there are no applicable regulations, in such manner as the Minister directs.

Disposal with consent

28. Where a controlled substance has been seized, found or otherwise acquired by a peace officer or inspector under this Act or the regulations and the substance or a portion of it is not required for the purposes of a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament, the person who is the lawful owner or is lawfully entitled to its possession may consent to its disposal, and on such consent being given the substance or portion is thereupon forfeited to Her Majesty and may be disposed of or otherwise dealt with in accordance with the regulations or, if there are no applicable regulations, in such manner as the Minister directs.

Destruction of plant

29. The Minister may, on prior notification being given to the Attorney General, cause to be destroyed any plant from which a substance included in Schedule I, II, III or IV may be extracted that is being produced otherwise than under the authority of and in accordance with a licence issued under the regulations.

PART IV **ADMINISTRATION AND COMPLIANCE**

Inspectors

Designation of inspectors

30. (1) The Minister may designate, in accordance with the regulations made pursuant to paragraph 55(1)(n), any person as an inspector for the purposes of this Act and the regulations.

Certificate of designation

(2) An inspector shall be furnished with a prescribed certificate of designation, and on entering any place pursuant to subsection 31(1) shall, on request, produce the certificate to the person in charge of the place.

Powers of inspector

31. (1) Subject to subsection (2), an inspector may, to ensure compliance with the regulations, at any reasonable time enter any place the inspector believes on reasonable grounds is used for the purpose of conducting the business or professional practice of any person licensed or otherwise authorized under the regulations to deal in a controlled substance or a precursor and may for that purpose

- (a) open and examine any receptacle or package found in that place in which a controlled substance or a precursor may be found;
- (b) examine any thing found in that place that is used or may be capable of being used for the production, preservation, packaging or storage of a controlled substance or a precursor;
- (c) examine any labels or advertising material or records, books, electronic data or other documents found in that place with respect to any controlled substance or precursor, other than the records of the medical condition of persons, and make copies thereof or take extracts therefrom;
- (d) use or cause to be used any computer system at that place to examine any electronic data referred to in paragraph (c);
- (e) reproduce any document from any electronic data referred to in paragraph (c) or cause it to be reproduced, in the form of a printout or other output;
- (f) take the labels or advertising material or records, books or other documents referred to in paragraph (c) or the printout or other output referred to in paragraph (e) for examination or copying;
- (g) use or cause to be used any copying equipment at that place to make copies of any document;
- (h) examine any substance found in that place and take, for the purpose of analysis, such samples thereof as are reasonably required; and
- (i) seize and detain in accordance with this Part, any controlled substance or precursor the seizure and detention of which the inspector believes on reasonable grounds is necessary.

Warrant required to enter dwelling-place

(2) Where a place referred to in subsection (1) is a dwelling-place, an inspector may not enter the dwelling-place without the consent of an occupant thereof except under the authority of a warrant issued under subsection (3).

Authority to issue warrant

(3) Where, on *ex parte* application, a justice is satisfied by information on oath that

(a) a place referred to in subsection (1) is a dwelling-place but otherwise meets the conditions for entry described in that subsection,

(b) entry to the dwelling-place is necessary for the purpose of ensuring compliance with the regulations, and

(c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,

the justice may issue a warrant authorizing the inspector named in it to enter that dwelling-place and exercise any of the powers mentioned in paragraphs (1)(a) to (i), subject to such conditions as may be specified in the warrant.

Use of force

(4) In executing a warrant issued under subsection (3), an inspector shall not use force unless the inspector is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

Assistance to inspector

(5) The owner or other person in charge of a place entered by an inspector under subsection (1) and every person found there shall give the inspector all reasonable assistance in the power of that person and furnish the inspector with such information as the inspector may reasonably require.

Storage of substances seized

(6) Where an inspector seizes and detains a controlled substance or a precursor, the substance or precursor may, at the discretion of the inspector, be kept or stored at the place where it was seized or, at the direction of the inspector, be removed to any other proper place.

Notice

(7) An inspector who seizes a controlled substance or a precursor shall take such measures as are reasonable in the circumstances to give to the owner or other person in charge of the place where the seizure occurred notice of the seizure and of the location where the controlled substance or precursor is being kept or stored.

Return by inspector

(8) Where an inspector determines that to ensure compliance with the regulations it is no longer necessary to detain a controlled substance or a precursor seized by the inspector under paragraph (1)(i), the inspector shall notify in writing the owner or other person in charge of the place where the seizure occurred of that determination and, on being issued a receipt for it, shall return the controlled substance or precursor to that person.

Return or disposal by Minister

(9) Notwithstanding sections 24, 25 and 27, where a period of one hundred and twenty days has elapsed after the date of a seizure under paragraph (1)(i) and the controlled substance or precursor has not been returned in accordance with subsection (8), the controlled substance or precursor shall be returned, disposed of or otherwise dealt with in such manner as the Minister directs, in accordance with any applicable regulations.

Obstructing inspector

32. (1) No person shall, by act or omission, obstruct an inspector who is engaged in the performance of duties under this Act or the regulations.

False statements

(2) No person shall knowingly make any false or misleading statement verbally or in writing to an inspector who is engaged in the performance of duties under this Act or the regulations.

Interference

(3) No person shall, without the authority of an inspector, remove, alter or interfere in any way with anything seized, detained or taken under section 31.

PART V

ADMINISTRATIVE ORDERS FOR CONTRAVENTIONS OF DESIGNATED REGULATIONS

Designation of regulations

33. The Governor in Council may, by regulation, designate any regulation made under this Act (in this Part referred to as a "designated regulation") as a regulation the contravention of which shall be dealt with under this Part.

Contravention of designated regulation

34. Where the Minister has reasonable grounds to believe that a person has contravened a designated regulation, the Minister shall

- (a) in the prescribed manner, serve a notice to appear on the person; and
- (b) send a copy of the notice to appear to an adjudicator and direct the adjudicator to conduct a hearing to determine whether the contravention has occurred and to notify the Minister of the adjudicator's determination.

Interim order

35. (1) Where the Minister has reasonable grounds to believe that a person has contravened a designated regulation and the Minister is of the opinion that, as a result of that contravention, there is a substantial risk of immediate danger to the health or safety of any person, the Minister may, without giving prior notice to the person believed to have contravened the designated regulation, make an interim order in respect of the person

- (a) prohibiting the person from doing anything that the person would otherwise be permitted to do under their licence, permit or authorization, or
- (b) subjecting the doing of anything under the designated regulation by the person to the terms and conditions specified in the interim order,

and may, for that purpose, suspend, cancel or amend the licence, permit or authorization issued or granted to the person or take any other measures set out in the regulations.

Interim order

- (2) Where the Minister makes an interim order under subsection (1), the Minister shall forthwith
- (a) in the prescribed manner, serve the interim order on the person;
 - (b) in the prescribed manner, serve a notice to appear on the person; and
 - (c) send a copy of the interim order and the notice to appear to an adjudicator and direct the adjudicator to conduct a hearing to determine whether the contravention has occurred and to notify the Minister of the adjudicator's determination.

Hearing by adjudicator

36. (1) Where an adjudicator receives from the Minister a copy of a notice to appear under paragraph 34(b) or 35(2)(c), the adjudicator shall conduct a hearing on a date to be fixed by the adjudicator at the request of the person on whom the notice was served, on two days notice being given to the adjudicator, which hearing date may not
- (a) in the case of a notice served under paragraph 34(a), be less than thirty days, or more than forty-five days, after the day of service of the notice; or
 - (b) in the case of a notice served under paragraph 35(2)(b), be less than three days, or more than forty-five days, after the day of service of the notice.

Change of hearing date

- (2) Where the adjudicator is unable to conduct a hearing on the date referred to in subsection (1), the adjudicator shall forthwith notify the person and fix, for the purpose of holding the hearing, the earliest possible date to which the adjudicator and the person agree.

Proceedings on default

- (3) Where an adjudicator has received a copy of a notice to appear referred to in subsection (1) and where the person on whom the notice is served has not requested a date for a hearing within forty-five days after the notice was served on that person, or where the person, having requested a hearing, fails to appear for the hearing, the adjudicator shall proceed to make a determination in the absence of the person.

Time and place

- (4) An adjudicator may, subject to the regulations, determine the time and place of any hearing or other proceeding under this Part.

Notice to appear

37. A notice to appear served on a person under paragraph 34(a) or 35(2)(b) shall
- (a) specify the designated regulation that the Minister believes the person has contravened;
 - (b) state the grounds on which the Minister believes the contravention has occurred;
 - (c) state that the matter has been referred to an adjudicator for a hearing to be conducted on a date within the applicable period described in paragraph 36(1)(a) or (b); and
 - (d) set out such other information as is prescribed.

Proof of service

38. Proof of service of any notice, order or interim order under this Part shall be given in the prescribed manner.

Powers of adjudicator

39. For the purposes of this Act, an adjudicator has and may exercise the powers of a person appointed as a commissioner under Part I of the *Inquiries Act*.

Hearing procedure

40. An adjudicator shall deal with all matters as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.

Determination by adjudicator

41. (1) An adjudicator shall, after the conclusion of a hearing referred to in subsection 36(1) or a proceeding referred to in subsection 36(3), within the prescribed time, make a determination that the person who is the subject of the hearing or proceeding contravened or did not contravene the designated regulation.

Notice of determination

- (2) Where an adjudicator has made a determination under subsection (1), the adjudicator shall
- (a) forthwith notify the person and the Minister of the adjudicator's determination and the reasons; and
 - (b) where the adjudicator has determined that the person has contravened the designated regulation, notify the person of the opportunity to make representations to the Minister in writing in accordance with the regulations and within the prescribed time.

Ministerial orders

(3) Where an adjudicator has made a determination referred to in paragraph (2)(b) and the Minister has considered the determination and any representations referred to in that paragraph, the Minister shall forthwith make an order

- (a) prohibiting the person from doing anything that they would, if they were in compliance with the designated regulation, be permitted to do, or
- (b) subjecting the doing of anything under the designated regulation by the person to the terms and conditions specified in the order,

and may, for that purpose, suspend, cancel or amend any licence, permit or authorization issued or granted to the person under the regulations or take any other measures set out in the regulations.

Ministerial orders

(4) An order made under subsection (3) shall be served on the person to whom it is directed in the prescribed manner.

Effect of order

42. (1) An interim order made under subsection 35(1) and an order made under subsection 41(3) have effect from the time that they are served on the person to whom they are directed.

Cessation of effect

(2) An interim order that was made in respect of a person believed to have contravened a designated regulation ceases to have effect

- (a) where the Minister makes an order under subsection 41(3), at the time the order is served on the person; and

(b) where an adjudicator has determined that the person did not contravene the designated regulation, at the time the adjudicator makes the determination.

Application to revoke order

(3) A person in respect of whom an order was made under subsection 41(3) may make an application in writing to the Minister in accordance with the regulations to revoke the order.

Revocation of order

(4) The Minister may, in the prescribed circumstances, revoke, in whole or in part, any order made under subsection 41(3).

Offence for contravention of order

43. Every person commits an offence who contravenes an order or an interim order made under this Part.

PART VI GENERAL

Analysis

Designation of analysts

44. The Minister may designate, in accordance with the regulations made pursuant to paragraph 55(1)(o), any person as an analyst for the purposes of this Act and the regulations.

Analysis

45. (1) An inspector or peace officer may submit to an analyst for analysis or examination any substance or sample thereof taken by the inspector or peace officer.

Report (2) An analyst who has made an analysis or examination under subsection (1) may prepare a certificate or report stating that the analyst has analysed or examined a substance or a sample thereof and setting out the results of the analysis or examination.

Offence and Punishment

Penalty

46. Every person who contravenes a provision of this Act for which punishment is not otherwise provided or a regulation, other than a designated regulation within the meaning of Part V,

(a) is guilty of an indictable offence and liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years, or to both; or

(b) is guilty of an offence punishable on summary conviction and liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both.

Evidence and Procedure

Limitation

47. (1) No summary conviction proceedings in respect of an offence under subsection 4(2) or 32(2), section 43 or the regulations shall be commenced after the expiration of one year after the time when the subject-matter of the proceedings arose.

Venue

(2) Proceedings in respect of a contravention of any provision of this Act or the regulations may be held in the place where the offence was committed or where the subject-matter of the proceedings arose or in any place where the accused is apprehended or happens to be located.

Burden of proving exception, etc.

48. (1) No exception, exemption, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information or indictment for an offence under this Act or the regulations or under section 463, 464 or 465 of the *Criminal Code* in respect of such an offence.

Burden of proving exception, etc.

(2) In any prosecution under this Act, the prosecutor is not required, except by way of rebuttal, to prove that a certificate, licence, permit or other qualification does not operate in favour of the accused, whether or not the qualification is set out in the information or indictment.

Copies of documents

49. (1) A copy of any document filed with a department, ministry, agency, municipality or other body established by or pursuant to a law of a province, or of any statement containing information from the records kept by any such department, ministry, agency, municipality or body, purporting to be certified by any official having custody of that document or those records, is admissible in evidence in any prosecution for an offence referred to in subsection 48(1) and, in the absence of evidence to the contrary, is proof of the facts contained in that document or statement, without proof of the signature or official character of the person purporting to have certified it.

Authentication

(2) For the purposes of subsection (1), an engraved, lithographed, photocopied, photographed, printed or otherwise electronically or mechanically reproduced facsimile signature of an official referred to in that subsection is sufficient authentication of any copy referred to in that subsection.

Evidence inadmissible under this section

(3) Nothing in subsection (1) renders admissible in evidence in any legal proceeding such part of any record as is proved to be a record made in the course of an investigation or inquiry.

Certificate issued pursuant to regulations

50. (1) Subject to subsection (2), any certificate or other document issued pursuant to regulations made under paragraph 55(2)(c) is admissible in evidence in a preliminary inquiry, trial or other proceeding under this or any other Act of Parliament and, in the absence of evidence to the contrary, is proof that the certificate or other document was validly issued and of the facts contained in it, without proof of the signature or official character of the person purporting to have certified it.

Certificate issued pursuant to regulations

(2) The defence may, with leave of the court, require that the person who issued the certificate or other document

(a) produce an affidavit or solemn declaration attesting to any of the matters deemed to be proved under subsection (1); or

(b) appear before the court for examination or cross-examination in respect of the issuance of the certificate or other document.

Certificate of analyst

51. (1) Subject to this section, a certificate or report prepared by an analyst under subsection 45(2) is admissible in evidence in any prosecution for an offence under this Act or the regulations or any other Act of Parliament and, in the absence of evidence to the contrary, is proof of the statements set out in the certificate or report, without proof of the signature or official character of the person appearing to have signed it.

Attendance of analyst

(2) The party against whom a certificate or report of an analyst is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for the purpose of cross-examination.

Notice

(3) Unless the court otherwise orders, no certificate or report shall be received in evidence under subsection (1) unless the party intending to produce it has, before its production at trial, given to the party against whom it is intended to be produced reasonable notice of that intention, together with a copy of the certificate or report.

Proof of notice

52. (1) For the purposes of this Act and the regulations, the giving of any notice, whether orally or in writing, or the service of any document may be proved by the oral evidence of, or by the affidavit or solemn declaration of, the person claiming to have given that notice or served that document.

Proof of notice

(2) Notwithstanding subsection (1), the court may require the affiant or declarant to appear before it for examination or cross-examination in respect of the giving of notice or proof of service.

Continuity of possession

53. (1) In any proceeding under this Act or the regulations, continuity of possession of any exhibit tendered as evidence in that proceeding may be proved by the testimony of, or the affidavit or solemn declaration of, the person claiming to have had it in their possession.

Alternative method of proof

(2) Where an affidavit or solemn declaration is offered in proof of continuity of possession under subsection (1), the court may require the affiant or declarant to appear before it for examination or cross-examination in respect of the issue of continuity of possession.

Copies of records, books or documents

54. Where any record, book, electronic data or other document is examined or seized under this Act or the regulations, the Minister, or the officer by whom the record, book, electronic data or other document is examined or seized, may make or cause to be made one or more copies thereof, and a copy of any such record, book, electronic data or other document purporting to be certified by the Minister or a person authorized by the Minister is admissible in evidence and, in the absence of evidence to the contrary, has the same probative force as the original record, book, electronic data or other document would have had if it had been proved in the ordinary way.

Regulations, Exemptions and Disqualifications

Regulations

55. (1) The Governor in Council may make regulations for carrying out the purposes and provisions of this Act, including the regulation of the medical, scientific and industrial applications and distribution of controlled substances and precursors and the enforcement of this Act and, without restricting the generality of the foregoing, may make regulations

(a) governing, controlling, limiting, authorizing the importation into Canada, exportation from Canada, production, packaging, sending, transportation, delivery, sale, provision, administration, possession or obtaining of or other dealing in any controlled substances or precursor or any class thereof;

(b) respecting the circumstances in which, the conditions subject to which and the persons or classes of persons by whom any controlled substances or precursor or any class thereof may be imported into Canada, exported from Canada, produced, packaged, sent, transported, delivered, sold, provided, administered, possessed, obtained or otherwise dealt in, as well as the means by which and the persons or classes of persons by whom such activities may be authorized;

(c) respecting the issuance, suspension, cancellation, duration and terms and conditions of any class of licence for the importation into Canada, exportation from Canada, production, packaging, sale, provision or administration of any substance included in Schedule I, II, III, IV, V or VI or any class thereof;

(d) respecting the issuance, suspension, cancellation, duration and terms and conditions of any permit for the importation into Canada, exportation from Canada or production of a specified quantity of a substance included in Schedule I, II, III, IV, V or VI or any class thereof;

(e) prescribing the fees payable on application for any of the licences or permits provided for in paragraphs (c) and (d);

(f) respecting the method of production, preservation, testing, packaging or storage of any controlled substance or precursor or any class thereof;

(g) respecting the premises, processes or conditions for the production or sale of any controlled substance or any class thereof, and deeming such premises, processes or conditions to be or not to be suitable for the purposes of the regulations;

(h) respecting the qualifications of persons who are engaged in the production, preservation, testing, packaging, storage, selling, providing or otherwise dealing in any controlled substance or precursor or any class thereof and who do so under the supervision of a person licensed under the regulations to do any such thing;

(i) prescribing standards of composition, strength, concentration, potency, purity or quality or any other property of any controlled substance or precursor;

(j) respecting the labelling, packaging, size, dimensions, fill and other specifications of packages used for the importation into Canada, exportation from Canada, sending, transportation, delivery, sale or provision of or other dealing in any substance included in Schedule I, II, III, IV, V or VI or any class thereof;

(k) respecting the distribution of samples of any substance included in Schedule I, II, III, IV, V or VI or any class thereof;

(l) controlling and limiting the advertising for sale of any controlled substance or precursor or any class thereof;

- (m) respecting the records, books, electronic data or other documents in respect of controlled substances and precursors that are required to be kept and provided by any person or class of persons who imports into Canada, exports from Canada, produces, packages, sends, transports, delivers, sells, provides, administers, possesses, obtains or otherwise deals in any controlled substance or precursor or any class thereof;
- (n) respecting the qualifications for inspectors and their powers and duties in relation to the enforcement of, and compliance with, the regulations;
- (o) respecting the qualifications for analysts and their powers and duties;
- (p) respecting the detention and disposal of or otherwise dealing with any controlled substance;
- (q) respecting the disposal of or otherwise dealing with any precursor;
- (r) respecting the taking of samples of substances under paragraph 31(1)(h);
- (s) respecting the communication of any information obtained under this Act or the regulations from or relating to any person or class of persons who is or may be authorized to import into Canada, export from Canada, produce, package, send, transport, deliver, sell, provide, administer, possess, obtain or otherwise deal in any controlled substance or precursor or any class thereof
 - (i) to any provincial professional licensing authority, or
 - (ii) to any person or class of persons where, in the opinion of the Governor in Council, it is necessary to communicate that information for the proper administration or enforcement of this Act or the regulations;
- (t) respecting the making, serving, filing and manner of proving service of any notice, order, report or other document required or authorized under this Act or the regulations;
- (u) prescribing the circumstances in which an order made under subsection 41(3) may be revoked by the Minister pursuant to subsection 42(4);
- (v) prescribing forms for the purposes of this Act or the regulations;
- (w) establishing classes or groups of controlled substances or precursors;
- (x) conferring powers or imposing duties and functions on adjudicators in relation to hearings conducted and determinations made by them under Part V;
- (y) governing the practice and procedure of hearings conducted and determinations made by adjudicators under Part V;
- (z) exempting, on such terms and conditions as may be specified in the regulations, any person or class of persons or any controlled substance or precursor or any class thereof from the application of this Act or the regulations; and
- (z.1) prescribing anything that, by this Act, is to be or may be prescribed.

Regulations pertaining to law enforcement

- (2) The Governor in Council, on the recommendation of the Solicitor General of Canada, may make regulations that pertain to investigations and other law enforcement activities conducted under this Act by a member of a police force and other persons acting under the direction and control of a member and, without restricting the generality of the foregoing, may make regulations

- (a) authorizing the Solicitor General of Canada, or the provincial minister responsible for policing in a province, to designate a police force within the Solicitor General's jurisdiction or the minister's jurisdiction, as the case may be, for the purposes of this subsection;
- (b) exempting, on such terms and conditions as may be specified in the regulations, a member of a police force that has been designated pursuant to paragraph (a) and other persons acting under the direction and control of the member from the application of any provision of Part I or the regulations;
- (c) respecting the issuance, suspension, cancellation, duration and terms and conditions of a certificate, other document or, in exigent circumstances, an approval to obtain a certificate or other document, that is issued to a member of a police force that has been designated pursuant to paragraph (a) for the purpose of exempting the member from the application of this Act or the regulations;
- (d) respecting the detention, storage, disposal or otherwise dealing with any controlled substance or precursor;
- (e) respecting records, reports, electronic data or other documents in respect of a controlled substance or precursor that are required to be kept and provided by any person or class of persons; and
- (f) prescribing forms for the purposes of the regulations.

Regulations pertaining to law enforcement under other Acts of Parliament

(2.1) The Governor in Council, on the recommendation of the Solicitor General of Canada, may, for the purpose of an investigation or other law enforcement activity conducted under another Act of Parliament, make regulations authorizing a member of a police force or other person under the direction and control of such a member to commit an act or omission -- or authorizing a member of a police force to direct the commission of an act or omission -- that would otherwise constitute an offence under Part I or the regulations and, without restricting the generality of the foregoing, may make regulations

- (a) authorizing the Solicitor General of Canada, or the provincial minister responsible for policing in a province, to designate a police force within the Solicitor General's jurisdiction or the minister's jurisdiction, as the case may be, for the purposes of this subsection;
- (b) exempting, on such terms and conditions as may be specified in the regulations, a member of a police force that has been designated pursuant to paragraph (a) and other persons acting under the direction and control of the member from the application of any provision of Part I or the regulations;
- (c) respecting the issuance, suspension, cancellation, duration and terms and conditions of a certificate, other document or, in exigent circumstances, an approval to obtain a certificate or other document, that is issued to a member of a police force that has been designated pursuant to paragraph (a) for the purpose of exempting the member from the application of Part I or the regulations;
- (d) respecting the detention, storage, disposal or other dealing with any controlled substance or precursor;
- (e) respecting records, reports, electronic data or other documents in respect of a controlled substance or precursor that are required to be kept and provided by any person or class of persons; and
- (f) prescribing forms for the purposes of the regulations.

Incorporation by reference

(3) Any regulations made under this Act incorporating by reference a classification, standard, procedure or other specification may incorporate the classification, standard, procedure or specification as amended from time to time, and, in such a case, the reference shall be read accordingly.

1996, c. 19, s. 55; 2001, c. 32, s. 55.

Exemption by Minister

56. The Minister may, on such terms and conditions as the Minister deems necessary, exempt any person or class of persons or any controlled substance or precursor or any class thereof from the application of all or any of the provisions of this Act or the regulations if, in the opinion of the Minister, the exemption is necessary for a medical or scientific purpose or is otherwise in the public interest.

Powers, duties and functions of Minister or Solicitor General of Canada

57. Any power, duty or function of

- (a) the Minister under this Act or the regulations, or
- (b) the Solicitor General of Canada under the regulations

may be exercised or performed by any person designated, or any person occupying a position designated, by the Minister or the Solicitor General, as the case may be, for that purpose.

Paramountcy of this Act and the regulations

58. In the case of any inconsistency or conflict between this Act or the regulations made under it, and the *Food and Drugs Act* or the regulations made under that Act, this Act and the regulations made under it prevail to the extent of the inconsistency or conflict.

Offence of making false or deceptive statements

59. No person shall knowingly make, or participate in, assent to or acquiesce in the making of, a false or misleading statement in any book, record, return or other document however recorded, required to be maintained, made or furnished pursuant to this Act or the regulations.

Amendments to Schedules

Schedules

60. The Governor in Council may, by order, amend any of Schedules I to VIII by adding to them or deleting from them any item or portion of an item, where the Governor in Council deems the amendment to be necessary in the public interest.

PART VII

TRANSITIONAL PROVISIONS, CONSEQUENTIAL AND CONDITIONAL AMENDMENTS, REPEAL AND COMING INTO FORCE

Transitional Provisions

References to prior enactments

61. Any reference in a designation by the Solicitor General of Canada under Part VI of the *Criminal Code* to an offence contrary to the *Narcotic Control Act* or Part III or IV of the *Food and Drugs Act* or any conspiracy or attempt to commit or being an accessory after the fact or any counselling in relation to such an offence shall be deemed to be a reference to an offence contrary to section 5 (trafficking), 6 (importing and exporting) or 7 (production) of this Act, as the case may be, or a conspiracy or attempt to commit or being an accessory after the fact or any counselling in relation to such an offence.

1996, c. 19, s. 61; 2001, c. 32, s. 56.

Sentences for prior offences

62. (1) Subject to subsection (2), where, before the coming into force of this Act, a person has committed an offence under the *Narcotic Control Act* or Part III or IV of the *Food and Drugs Act* but a sentence has not been imposed on the person for that offence, a sentence shall be imposed on the person in accordance with this Act.

Application of increased punishment

(2) Where any penalty, forfeiture or punishment provided by the *Narcotic Control Act* or section 31 or Part III or IV of the *Food and Drugs Act*, as those Acts read immediately before the coming into force of sections 4 to 9 of this Act, is varied by this Act, the lesser penalty, forfeiture or punishment applies in respect of any offence that was committed before the coming into force of those sections.

Validation

63. Every authorization issued by the Minister under subsection G.06.001(1) or J.01.033(1) of the *Food and Drug Regulations* or subsection 68(1) of the *Narcotic Control Regulations* before the coming into force of sections 81 and 94 of this Act is hereby declared to have been validly issued and every such authorization that is in force on the coming into force of sections 81 and 94 of this Act shall continue in force under this Act until it is revoked, as if it were an exemption made under section 56 of this Act.

Consequential Amendments

64. to 93.1 [Amendments]

Conditional Amendments

93.2 and 93.3 [Amendments]

Repeal

94. [Repeal]

Coming into Force

Coming into force

*95. This Act or any of its provisions comes into force on a day or days to be fixed by order of the Governor in Council.

*[Note: Act in force May 14, 1997, *see* SI/97-47.]

SCHEDULE I

(Sections 2 to 7, 29, 55 and 60)

1. Opium Poppy (*Papaver somniferum*), its preparations, derivatives, alkaloids and salts, including:

- (1) Opium
 - (2) Codeine (methylnorphine)
 - (3) Morphine (7,8--didehydro--4,5--epoxy--17 --methylnorphinan--3,6--diol)
 - (4) Thebaine (paramorphine)
- and the salts, derivatives and salts of derivatives of the substances set out in subitems (1) to (4), including:
- (5) Acetorphine (acetyletorphine)
 - (6) Acetyldihydrocodeine (4,5--epoxy--3--methoxy--17 --methylnorphinan--6--ol acetate)
 - (7) Benzylmorphine (7,8--didehydro--4,5--epoxy--17 --methyl--3--(phenylmethoxy) morphinan--6--ol)
 - (8) Codoxime (dihydrocodeinone O--(carboxymethyl) oxime)
 - (9) Desomorphine (dihydrodeoxymorphine)
 - (10) Diacetylmorphine (heroin)
 - (11) Dihydrocodeine (4,5--epoxy--3--methoxy--17-- methylnorphinan--6--ol)
 - (12) Dihydromorphine (4,5--epoxy--17--methylnorphinan--3,6--diol)
 - (13) Ethylmorphine (7,8--didehydro--4,5--epoxy--3--ethoxy --17--methylnorphinan--6--ol)
 - (14) Etorphine (tetrahydro--7?--(1--hydroxy--1--methyl-butyl)--6,14--endo--ethenooripavine)
 - (15) Hydrocodone (dihydrocodeinone)
 - (16) Hydromorphinol (dihydro--14--hydroxymorphine)
 - (17) Hydromorphone (dihydromorphinone)
 - (18) Methyldesorphine (?6--deoxy--6--methylnorphine)
 - (19) Methyldihydromorphine (dihydro--6--methylnorphine)
 - (20) Metopon (dihydromethylnorphinone)
 - (21) Morphine--N--oxide (morphine oxide)
 - (22) Myrophine (benzylmorphine myristate)
 - (23) Nalorphine (N--allylnormorphine)
 - (24) Nicocodine (6--nicotinylcodeine)

- (25) Nicomorphine (dinicotinylmorphine)
- (26) Norcodeine (N--desmethylcodeine)
- (27) Normorphine (N--desmethylmorphine)
- (28) Oxycodone (dihydrohydroxycodone)
- (29) Oxymorphone (dihydrohydroxymorphinone)
- (30) Pholcodine (3--[2--(4--morpholinyl)ethyl]morphine)
- (31) Thebacon (acetyldihydrocodeinone)

but not including

- (32) Apomorphine (5,6,6a,7--tetrahydro--6--methyl--4H-- dibenzo[de,g]quinoline--10,11--diol)
- (33) Cyprenorphine (N--(cyclopropylmethyl)--6,7,8,14 --tetrahydro--7?--(1--hydroxy--1--methylethyl) --6,14--endo--ethenonoripavine)
- (34) Nalmefene (17-(cyclopropylmethyl)-4,5?-epoxy-6-methylenemorphinan-3,14-diol)
- (34.1) Naloxone (4,5?-epoxy-3,14-dihydroxy-17-(2-propenyl)morphinan-6-one)
- (34.2) Naltrexone (17-(cyclopropylmethyl)-4,5?-epoxy-3,14-dihydroxymorphinan-6-one)
- (35) Narcotine (6,7--dimethoxy--3--(5,6,7,8--tetra--hydro--4--methoxy--6--methyl--1,3--dioxolos [4,5--g]isoquinolin--5--yl)--1(3H)--isobenzofuranone)
- (36) Papaverine (1--[3,4--dimethoxyphenyl)methyl] --6,7--dimethoxyisoquinoline)
- (37) Poppy seed

2. Coca (Erythroxyton), its preparations, derivatives, alkaloids and salts, including:

- (1) Coca leaves
- (2) Cocaine (benzoylecgonine)
- (3) Ecgonine (3--hydroxy--2--tropane carboxylic acid)

3. Phenylpiperidines, their intermediates, salts, derivatives and analogues and salts of intermediates, derivatives and analogues, including:

- (1) Allylprodine (3--allyl--1--methyl--4--phenyl--4--piperidinol propionate)
- (2) Alphameprodine (?--3--ethyl--1--methyl--4--phenyl--4-- piperidinol propionate)
- (3) Alphaprodine (?--1,3--dimethyl--4--phenyl--4--piperidinol propionate)
- (4) Anileridine (ethyl 1--[2--(p--aminophenyl)ethyl]--4 --phenylpiperidine--4--carboxylate)
- (5) Betameprodine (β --3--ethyl--1--methyl--4--phenyl--4--piperidinol propionate)
- (6) Betaprodine (β --1,3--dimethyl--4--phenyl--4--piperidinol propionate)
- (7) Benzethidine (ethyl 1--(2--benzyloxyethyl)--4 --phenylpiperidine--4--carboxylate)
- (8) Diphenoxylate (ethyl 1--(3--cyano--3,3--diphenylpropyl)--4 --phenylpiperidine--4--carboxylate)
- (9) Difenoxy (1--(3--cyano--3,3--diphenylpropyl)--4 --phenylpiperidine--4--carboxylate)

- (10) Etoperidine (ethyl 1--[2--(2--hydroxyethoxy) ethyl]--4--phenylpiperidine--4--carboxylate)
 - (11) Furethidine (ethyl 1--(2--tetrahydrofurfuryloxyethyl)--4--phenylpiperidine--4--carboxylate)
 - (12) Hydroxypethidine (ethyl 4--(m--hydroxyphenyl)--1--methylpiperidine--4--carboxylate)
 - (13) Ketobemidone (1--[4--(m--hydroxyphenyl)--1--methyl--4--piperidyl]--1--propanone)
 - (14) Methylphenylisonipecotonitrile (4--cyano--1--methyl--4--phenylpiperidine)
 - (15) Morpheridine (ethyl 1--(2--morpholinoethyl)--4--phenylpiperidine--4--carboxylate)
 - (16) Norpethidine (ethyl 4--phenylpiperidine--4--carboxylate)
 - (17) Pethidine (ethyl 1--methyl--4--phenylpiperidine--4--carboxylate)
 - (18) Phenoperidine (ethyl 1--(3--hydroxy--3--phenylpropyl)--4--phenylpiperidine--4--carboxylate)
 - (19) Piminodine (ethyl 1--[3--(phenylamino)propyl]--4--phenylpiperidine--4--carboxylate)
 - (20) Properidine (isopropyl 1--methyl--4--phenylpiperidine--4--carboxylate)
 - (21) Trimeperidine (1,2,5--trimethyl--4--phenyl--4--piperidinol propionate)
 - (22) Pethidine Intermediate C (1--methyl--4--phenylpiperidine--4--carboxylate)
- but not including
- (23) Carbamethidine (ethyl 1--(2--carbamylethyl)--4--phenylpiperidine--4--carboxylate)
 - (24) Oxpheneridine (ethyl 1--(2--hydroxy--2--phenylethyl)--4--phenylpiperidine--4--carboxylate)

4. Phenazepines, their salts, derivatives and salts of derivatives including:

- (1) Proheptazine (hexahydro--1,3--dimethyl--4--phenyl--1H--azepin--4--ol propionate)
- but not including
- (2) Ethoheptazine (ethyl hexahydro--1--methyl--4--phenyl--azepine--4--carboxylate)
 - (3) Metethoheptazine (ethyl hexahydro--1,3--dimethyl--4--phenylazepine--4--carboxylate)
 - (4) Methheptazine (ethyl hexahydro--1,2--dimethyl--4--phenylazepine--4--carboxylate)

5. Amidones, their intermediates, salts, derivatives and salts of intermediates and derivatives including:

- (1) Dimethylaminodiphenylbutanonitrile (4--cyano--2--dimethylamino--4,4--diphenylbutane)
- (2) Dipipanone (4,4--diphenyl--6--piperidino--3--heptanone)
- (3) Isomethadone (6--dimethylamino--5--methyl--4,4--diphenyl--3--hexanone)
- (4) Methadone (6--dimethylamino--4,4--diphenyl--3--heptanone)
- (5) Normethadone (6--dimethylamino--4,4--diphenyl--3--hexanone)
- (6) Norpipanone (4,4--diphenyl--6--piperidino--3--hexanone)
- (7) Phenadoxone (6--morpholino--4,4--diphenyl--3--heptanone)

6. Methadols, their salts, derivatives and salts of derivatives including:

- (1) Acetylmethadol (6--dimethylamino--4,4--diphenyl--3--heptanol acetate)
 - (2) Alphacetylmethadol (?--6--dimethylamino--4,4 --diphenyl--3--heptanol acetate)
 - (3) Alphamethadol (?--6--dimethylamino--4,4--diphenyl--3--heptanol)
 - (4) Betacetylmethadol (β --6--dimethylamino--4,4 --diphenyl--3--heptanol acetate)
 - (5) Betamethadol (β --6--dimethylamino--4,4--diphenyl--3--heptanol)
 - (6) Dimepheptanol (6--dimethylamino--4,4--diphenyl--3--heptanol)
 - (7) Noracymethadol (?--6--methylamino--4,4--diphenyl--3--heptanol acetate)
7. Phenalkoxams, their salts, derivatives and salts of derivatives including:
- (1) Dimenoxadol (dimethylaminoethyl 1--ethoxy--1,1--diphenylacetate)
 - (2) Dioxaphetyl butyrate (ethyl 2,2--diphenyl--4--morpholinobutyrate)
 - (3) Dextropropoxyphene ([S--(R*,S*)]--?--[2--(dimethylamino)--1-- methylethyl]--?--phenylbenzeneethanol, propanoate ester)
8. Thiambutenes, their salts, derivatives and salts of derivatives including:
- (1) Diethylthiambutene (N,N--diethyl--1--methyl--3,3--di--2--thienylallylamine)
 - (2) Dimethylthiambutene (N,N,1--trimethyl--3,3--di--2--thienylallylamine)
 - (3) Ethylmethylthiambutene (N--ethyl--N,1--dimethyl--3,3--di--2--thienylallylamine)
9. Moramides, their intermediates, salts, derivatives and salts of intermediates and derivatives including:
- (1) Dextromoramide (d--1--(3--methyl--4--morpholino--2,2 --diphenylbutyryl)pyrrolidine)
 - (2) Diphenylmorpholinoisovaleric acid (2--methyl--3--morpholino--1,1--diphenylpropionic acid)
 - (3) Levomoramide (*l*--1--(3--methyl--4--morpholino--2,2 --diphenylbutyryl)pyrrolidine)
 - (4) Racemoramide (d,*l*--1--(3--methyl--4--morpholino--2,2 --diphenylbutyryl) pyrrolidine)
10. Morphinans, their salts, derivatives and salts of derivatives including:
- (1) Buprenorphine (17--(cyclopropylmethyl)--? --(1,1--dimethylethyl)--4,5--epoxy--18,19--dihydro--3-- hydroxy --6--methoxy--?--methyl--6,14--ethenomorphinan --7--methanol)
 - (2) Drotebanol (6 β ,14--dihydroxy--3,4--dimethoxy --17--methylmorphinan)
 - (3) Levomethorphan (1--3--methoxy--17--methylmorphinan)
 - (4) Levorphanol (1--3--hydroxy--17--methylmorphinan)
 - (5) Levophenacilmorphan (1--3--hydroxy--17--phenacilmorphan)
 - (6) Norlevorphanol (1--3--hydroxymorphinan)
 - (7) Phenomorphan (3--hydroxy--17--(2--phenylethyl)morphinan)
 - (8) Racemethorphan (d,1--3--methoxy--17--methylmorphinan)
 - (9) Racemorphan (*d,l*--3--hydroxy--N--methylmorphinan)
- but not including

(10) Dextromethorphan (d--1,2,3,9,10,10a--hexahydro--6 --methoxy--11--methyl--4H--10,4a--iminoethano--phenanthren)

(11) Dextrorphan (d--1,2,3,9,10,10a--hexahydro--11 --methyl--4H--10,4a--iminoethanophenanthren--6--ol)

(12) Levallorphan (l--11--allyl--1,2,3,9,10,10a --hexahydro--4H--10,4a--iminoethanophenanthren-- 6--ol)

(13) Levargorphan (l--11--propargyl--1,2,3,9,10,10a--hexahydro-- 4H--10,4a--iminoethanophenanthren--6--ol)

(14) Butorphanol (17--(cyclobutylmethyl)morphinan--3,14--diol)

(15) Nalbuphine (17--(cyclobutylmethyl)--4,5?--epoxymorphinan --3,6?, 14-- triol)

11. Benzazocines, their salts, derivatives and salts of derivatives including:

(1) Phenazocine (1,2,3,4,5,6--hexahydro--6,11--dimethyl --3--phenethyl--2,6--methano--3--benzazocin--8--ol)

(2) Metazocine (1,2,3,4,5,6--hexahydro--3,6,11 --trimethyl--2,6--methano--3--benzazocin--8--ol)

(3) Pentazocine (1,2,3,4,5,6--hexahydro--6,11--dimethyl --3--(3--methyl--2--butenyl)--2,6--methano--3--benzazocin --8--ol)

but not including

(4) Cyclazocine (1,2,3,4,5,6--hexahydro--6,11--dimethyl --3--(cyclopropylmethyl)--2,6--methano--3--benzazocin--8--ol)

12. Ampromides, their salts, derivatives and salts of derivatives including:

(1) Diampromide (N--[2--(methylphenethylamino)propyl] propionanilide)

(2) Phenampromide (N--(1--methyl--2--piperidino) ethyl) propionanilide)

(3) Propiram (N--(1--methyl--2--piperidinoethyl)--N --2--pyridylpropionamide)

13. Benzimidazoles, their salts, derivatives and salts of derivatives including:

(1) Clonitazene (2--(p--chlorobenzyl)--1--diethylaminoethyl--5 --nitrobenzimidazole)

(2) Etonitazene (2--(p--ethoxybenzyl)--1--diethylaminoethyl--5-- nitrobenzimidazole)

(3) Bezitramide (1--(3--cyano--3,3--diphenylpropyl) --4--(2--oxo--3--propionyl--1--benzimidazoliny)--piperidine)

14. Phencyclidine (1--(1--phenylcyclohexyl)piperidine), its salts, derivatives and analogues and salts of derivatives and analogues

15. Piritramide (1--(3--cyano--3,3--diphenylpropyl)--4--(1--piperidino)piperidine --4--carboxylic acid amide), its salts, derivatives and salts of derivatives

16. Fentanyl, their salts, derivatives, and analogues and salts of derivatives and analogues, including:

(1) Acetyl--?--methylfentanyl (N--[1--(?--methylphenethyl) --4--piperidyl] acetanilide)

(2) Alfentanil (N--[1--[2--(4--ethyl--4,5--dihydro --5--oxo--1H--tetrazol--1--yl)ethyl]--4--(methoxymethyl) --4--piperidyl]propionanilide)

- (3) Carfentanil (methyl 4--[(1--oxopropyl)phenylamino] --1--(2--phenethyl)--4--piperidinecarboxylate)
- (4) p--Fluorofentanyl (4'fluoro--N--(1--phenethyl--4-- piperidyl) propionanilide)
- (5) Fentanyl (N--(1--phenethyl--4--piperidyl) propionanilide)
- (6) β --Hydroxyfentanyl (N--[1--(β --hydroxyphenethyl)--4-- piperidyl] propionanilide)
- (7) β --Hydroxy--3--methylfentanyl (N--[1--(β --hydroxyphenethyl) --3--methyl--4--piperidyl] propionanilide)
- (8) ?--Methylfentanyl (N--[1--(?--methylphenethyl)--4--piperidyl] propionanilide)
- (9) ?--Methylthiofentanyl (N--[1--[1--methyl--2--(2--thienyl) ethyl]--4--piperidyl] propionanilide)
- (10) 3--Methylfentanyl (N--(3--methyl--1--phenethyl--4--piperidyl) propionanilide)
- (11) 3--Methylthiofentanyl (N--[3--methyl--1--[2--(2--thienyl) ethyl]--4--piperidyl] propionanilide)
- (11.1) Remifentanil (dimethyl 4-carboxy-4-(N-phenylpropionamido)-1-piperidinepropionate)
- (12) Sufentanil (N--[4--(methoxymethyl)--1--[2--(2 --thienyl)ethyl]--4--piperidyl] propionanilide)
- (13) Thiofentanyl (N--[1--[2--(2--thienyl)ethyl]--4--piperidyl] propionanilide)

17. Tilidine (ethyl2--(dimethylamino)--1--phenyl--3 --cyclohexene--1--carboxylate), its salts, derivatives and salts of derivatives

1996, c. 19, Sch. I; SOR/97-230, ss. 1 to 6; SOR/99-371, ss. 1, 2; SOR/99-421, s. 1(E).

SCHEDULE II

(Sections 2, 3, 4 to 7, 10, 29, 55 and 60)

1. Cannabis, its preparations, derivatives and similar synthetic preparations, including:

- (1) Cannabis resin
- (2) Cannabis (marihuana)
- (3) Cannabidiol (2--[3--methyl--6--(1--methylethenyl) --2--cyclohexen--1--yl]--5--pentyl--1,3--benzenediol)
- (4) Cannabinol (3--n--amyl--6,6,9--trimethyl--6--dibenzopyran --1--ol)
- (5) Nabilone ((\pm)--trans--3--(1,1--dimethylheptyl)--6,6a, 7,8,10,10a--hexahydro--1--hydroxy--6,6--dimethyl --9H--dibenzo[b,d]pyran--9--one)
- (6) Pyrahexyl (3--n--hexyl--6,6,9--trimethyl--7,8,9, 10--tetrahydro--6--dibenzopyran--1--ol)
- (7) Tetrahydrocannabinol (tetrahydro--6,6,9--trimethyl--3 --pentyl--6H--dibenzo[b,d]pyran--1--ol)
- (7.1) 3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol(DMHP)

but not including

- (8) Non?viable Cannabis seed, with the exception of its derivatives

(9) Mature Cannabis stalks that do not include leaves, flowers, seeds or branches; and fiber derived from such stalks

1996, c. 19, Sch. II; SOR/98-157; SOR/2003-32, s. 1.

SCHEDULE III

(Sections 2 to 7, 29, 55 and 60)

1. Amphetamines, their salts, derivatives, isomers and analogues and salts of derivatives, isomers and analogues including:

- (1) amphetamine (?-methylbenzeneethanamine)
- (2) methamphetamine (N,?-dimethylbenzeneethanamine)
- (3) N-ethylamphetamine (N-ethyl--?-methylbenzeneethanamine)
- (4) 4-methyl-2,5-dimethoxyamphetamine (STP) (2,5-dimethoxy--4,?-dimethylbenzeneethanamine)
- (5) 3,4-methylenedioxyamphetamine (MDA) (?-methyl--1,3-benzodioxole--5-ethanamine)
- (6) 2,5-dimethoxyamphetamine (2,5-dimethoxy--?-methylbenzeneethanamine)
- (7) 4-methoxyamphetamine (4-methoxy--?-methylbenzeneethanamine)
- (8) 2,4,5-trimethoxyamphetamine (2,4,5-trimethoxy--?-methylbenzeneethanamine)
- (9) N-methyl-3,4-methylenedioxyamphetamine (N,?-dimethyl--1,3-benzodioxole--5-ethanamine)
- (10) 4-ethoxy-2,5-dimethoxyamphetamine (4-ethoxy --2,5-dimethoxy--?-methylbenzeneethanamine)
- (11) 5-methoxy-3,4-methylenedioxyamphetamine (7-methoxy--?-methyl--1,3-benzodioxole--5-ethanamine)
- (12) N,N-dimethyl-3,4-methylenedioxyamphetamine (N,N, ?-trimethyl--1,3-benzodioxole--5-ethanamine)
- (13) N-ethyl-3,4-methylenedioxyamphetamine (N-ethyl--?-methyl--1,3-benzodioxole--5-ethanamine)
- (14) 4-ethyl-2,5-dimethoxyamphetamine (DOET) (4-ethyl--2,5-dimethoxy--?-methylbenzeneethanamine)
- (15) 4-bromo-2,5-dimethoxyamphetamine (4-bromo--2,5-dimethoxy--?-methylbenzeneethanamine)
- (16) 4-chloro-2,5-dimethoxyamphetamine (4-chloro--2,5-dimethoxy--?-methylbenzeneethanamine)
- (17) 4-ethoxyamphetamine (4-ethoxy--? --methylbenzeneethanamine)
- (18) Benzphetamine (N-benzyl--N,?-dimethylbenzeneethanamine)
- (19) N-Propyl-3,4-methylenedioxyamphetamine (?-methyl--N-propyl--1,3-benzodioxole--5-ethanamine)
- (20) N-(2-Hydroxyethyl)--?-methylbenzeneethanamine
- (21) N-hydroxy-3,4-methylenedioxyamphetamine (N-[?-methyl-3,4-(methylenedioxy)phenethyl] hydroxylamine)

- (22) 3,4,5-trimethoxyamphetamine (3,4,5-trimethoxy-?-methylbenzeneethanamine)
2. Methylphenidate (?-phenyl--2--piperidineacetic acid methyl ester) and any salt thereof
3. Methaqualone (2--methyl--3--(2--methylphenyl) --4(3H)--quinazolinone) and any salt thereof
4. Mecloqualone (2--methyl--3--(2--chlorophenyl) --4(3H)--quinazolinone) and any salt thereof
5. Lysergic acid diethylamide (LSD) (N,N--diethyllysergamide) and any salt thereof
6. N,N--Diethyltryptamine (DET) (3--[2--diethylamino) ethyl]indole) and any salt thereof
7. N,N--Dimethyltryptamine (DMT) (3--[2--dimethylamino) ethyl]indole) and any salt thereof
8. N--Methyl--3--piperidyl benzilate (LBJ) (3--[hydroxydiphenylacetyl]oxy] --1--methylpiperidine) and any salt thereof
9. Harmaline (4,9--dihydro--7--methoxy--1--methyl --3H--pyrido(3,4--b)indole) and any salt thereof
10. Harmalol (4,9--dihydro--1--methyl--3H--pyrido(3,4--b)indol--7--ol) and any salt thereof
11. Psilocin (3--[2--(dimethylamino)ethyl]--4--hydroxyindole) and any salt thereof
12. Psilocybin (3--[2--(dimethylamino)ethyl] --4--phosphoryloxyindole) and any salt thereof
13. N--(1--phenylcyclohexyl)ethylamine (PCE) and any salt thereof
14. 1--[1--(2--Thienyl) cyclohexyl]piperidine (TCP) and any salt thereof
15. 1--Phenyl--N--propylcyclohexanamine and any salt thereof
16. Rolicyclidine (1-(1-phenylcyclohexyl) pyrrolidine) and any salt thereof
17. Mescaline (3,4,5--trimethoxybenzeneethanamine) and any salt thereof, but not peyote (lophophora)
18. 4--Methylaminorex (4,5--dihydro--4--methyl--5--phenyl--2 --oxazolamine) and any salt thereof
19. Cathinone ((--)--?-aminopropiophenone) and any salt thereof
20. Fenetylline (d,l--3,7--dihydro--1,3--dimethyl--7--(2-- [(1--methyl--2--phenethyl)amino]ethyl)-1H--purine--2, 6--dione) and any salt thereof
21. 2--Methylamino--1--phenyl--1--propanone and any salt thereof
22. 1--[1--(Phenylmethyl)cyclohexyl]piperidine and any salt thereof
23. 1--[1--(4--Methylphenyl)cyclohexyl]piperidine and any salt thereof
24. 4--bromo--2,5--dimethoxybenzeneethanamine and any salt, isomer or salt of isomer thereof
25. Flunitrazepam (5-(o-fluorophenyl)-1,3-dihydro-1-methyl-7-nitro-2H-1,4-benzodiazepin-2-one) and any salts or derivatives thereof
26. 4-hydroxybutanoic acid (GHB) and any salt thereof
27. Aminorex (4,5-dihydro-5-phenyl-2-oxazolamine) and any salt thereof
28. Etryptamine (3-(2-aminobutyl)indole) and any salt thereof
29. Lefetamine ((-)-N,N-dimethyl-?-phenylbenzeneethanamine) and any salt thereof
30. Mesocarb (3-(?-methylphenethyl)-N-(phenylcarbamoyl)sydnone imine) and any salt thereof

31. Zipeprol (4-(2-methoxy-2-phenylethyl)-?-(methoxyphenylmethyl)-1-piperazineethanol) and any salt thereof

32. Amineptine (7-[(10,11-dihydro-5H-dibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid) and any salt thereof

1996, c. 19, Sch. III; SOR/97-230, ss. 7 to 10; SOR/98-173, s. 1; SOR/2000-220, s. 1; SOR/2003-32, ss. 2 to 5; SOR/2003-412.

SCHEDULE IV

(Sections 2 to 4, 5 to 7, 29, 55 and 60)

1. Barbiturates, their salts and derivatives including

- (1) Allobarbital (5,5--diallylbarbituric acid)
- (2) Alphenal (5--allyl--5--phenylbarbituric acid)
- (3) Amobarbital (5--ethyl--5--(3--methylbutyl)barbituric acid)
- (4) Aprobarbital (5--allyl--5--isopropylbarbituric acid)
- (5) Barbital (5,5--diethylbarbituric acid)
- (6) Barbituric Acid (2,4,6(1H,3H,5H)--pyrimidinetrione)
- (7) Butabarbital (5--sec--butyl--5--ethylbarbituric acid)
- (8) Butalbital (5--allyl--5--isobutylbarbituric acid)
- (9) Butallylonal (5--(2--bromoallyl)--5--sec--butylbarbituric acid)
- (10) Butethal (5--butyl--5--ethylbarbituric acid)
- (11) Cyclobarbital (5--(1--cyclohexen--1--yl)--5--ethylbarbituric acid)
- (12) Cyclopal (5--allyl--5--(2--cyclopenten--1--yl)barbituric acid)
- (13) Heptabarbital (5--(1--cyclohepten--1--yl)--5--ethylbarbituric acid)
- (14) Hexethal (5--ethyl--5--hexylbarbituric acid)
- (15) Hexobarbital (5--(1--cyclohexen--1--yl)--1,5--dimethylbarbituric acid)
- (16) Mephobarbital (5--ethyl--1--methyl--5--phenylbarbituric acid)
- (17) Methabarbital (5,5--diethyl--1--methylbarbituric acid)
- (18) Methylphenobarbital (5--ethyl--1--methyl--5--phenylbarbituric acid)
- (19) Propallylonal (5--(2--bromoallyl)--5--isopropylbarbituric acid)
- (20) Pentobarbital (5--ethyl--5--(1--methylbutyl)barbituric acid)
- (21) Phenobarbital (5--ethyl--5--phenylbarbituric acid)
- (22) Probarbital (5--ethyl--5--isopropylbarbituric acid)
- (23) Phenylmethylbarbituric Acid (5--methyl--5--phenylbarbituric acid)
- (24) Secobarbital (5--allyl--5--(1--methylbutyl)barbituric acid)
- (25) Sigmodal (5--(2--bromoallyl)--5--(1--methylbutyl) barbituric acid)
- (26) Talbutal (5--allyl--5--sec--butylbarbituric acid)

- (27) Vinbarbital (5--ethyl--5--(1--methyl--1--butenyl)barbituric acid)
- (28) Vinylbital (5--(1--methylbutyl)--5--vinylbarbituric acid)
- 2. Thiobarbiturates, their salts and derivatives including:
 - (1) Thialbarbital (5--allyl--5--(2--cyclohexen--1--yl) --2--thiobarbituric acid)
 - (2) Thiamylal (5--allyl--5--(1--methylbutyl)--2--thiobarbituric acid)
 - (3) Thiobarbituric Acid (2--thiobarbituric acid)
 - (4) Thiopental (5--ethyl--5--(1--methylbutyl)--2 --thiobarbituric acid)
- 3. Chlorphentermine (1--(p--chlorophenyl)--2--methyl--2 --aminopropane) and any salt thereof
- 4. Diethylpropion (2--(diethylamino)propiofenone) and any salt thereof
- 5. Phendimetrazine (d--3,4--dimethyl--2--phenylmorpholine) and any salt thereof
- 6. Phenmetrazine (3--methyl--2--phenylmorpholine) and any salt thereof
- 7. Pipradol (?,?--diphenyl--2--piperidinemethanol) and any salt thereof
- 8. Phentermine (?,?--dimethylbenzeneethanamine) and any salt thereof
- 9. Butorphanol (1--N--cyclobutylmethyl--3,14--dihydroxymorphinan) and any salt thereof
- 10. Nalbuphine (N--cyclobutylmethyl--4,5--epoxy--morphinan --3,6,14--triol) and any salt thereof
- 11. Glutethimide (2--ethyl--2--phenylglutarimide)
- 12. Clotiazepam (5--(o--chlorophenyl)--7--ethyl--1,3--dihydro--1-- methyl--2H--thieno[2,3--e]--1,4--diazepin--2--one) and any salt thereof
- 13. Ethchlorvynol (ethyl--2--chlorovinyl ethynyl carbinol)
- 14. Ethinamate (1--ethynylcyclohexanol carbamate)
- 15. Mazindol (5--(p--chlorophenyl)--2,5--dihydro--3H --imidazo[2,1--a]isoindol--5--ol)
- 16. Meprobamate (2--methyl--2--propyl--1,3--propanediol dicarbamate)
- 17. Methpyrlyon (3,3--diethyl--5--methyl--2,4--piperidinedione)
- 18. Benzodiazepines, their salts and derivatives, including:
 - (1) Alprazolam (8--chloro--1--methyl--6--phenyl--4H --s--triazolo[4,3--a][1,4] benzodiazepine)
 - (2) Bromazepam (7--bromo--1,3--dihydro--5--(2--pyridyl)--2H--1, 4--benzodiazepin--2--one)
 - (2.1) Brotizolam (2-bromo-4-(o-chlorophenyl)-9-methyl-6H-thieno[3,2-f]-s-triazolo[4,3-a][1,4]diazepine)
 - (3) Camazepam (7--chloro--1,3--dihydro--3--(N,N-- dimethylcarbamoil)--1--methyl--5--phenyl--2H--1, 4--benzodiazepin--2--one)
 - (4) Chlordiazepoxide (7--chloro--2--(methylamino)--5 --phenyl--3H--1,4--benzodiazepine--4--oxide)
 - (5) Clobazam (7--chloro--1--methyl--5--phenyl--1H--1,5-- benzodiazepine--2,4(3H,5H)--dione)

- (6) Clonazepam (5--(o--chlorophenyl)--1,3--dihydro--7 --nitro--2H--1,4--benzodiazepin--2--one)
- (7) Clorazepate (7--chloro--2,3--dihydro--2,2--dihydroxy--5 --phenyl--1H--1,4--benzodiazepine--3--carboxylic acid)
- (8) Cloxazolam (10--chloro--11b--(o--chlorophenyl)--2,3, 7,11b--tetrahydrooxazolo[3,2--d][1,4]benzodiazepin 6--(5H)--one)
- (9) Delorazepam (7--chloro--5--(o--chlorophenyl)--1,3 --dihydro--2H--1,4--benzodiazepin--2--one)
- (10) Diazepam (7--chloro--1,3--dihydro--1--methyl --5--phenyl--2H--1,4--benzodiazepin--2--one)
- (11) Estazolam (8--chloro--6--phenyl--4H--s--triazolo [4,3--a][1,4]benzodiazepine)
- (12) Ethyl Loflazepate (ethyl 7--chloro--5--(o--fluorophenyl) --2,3--dihydro--2--oxo--1H--1,4--benzodiazepine--3 --carboxylate)
- (13) Fludiazepam (7--chloro--5--(o--fluorophenyl)--1,3 --dihydro--1--methyl--2H--1,4--benzodiazepin--2--one)
- (14) [Repealed, SOR/98-173, s. 2]
- (15) Flurazepam (7--chloro--1--[2--(diethylamino) ethyl]--5--(o--fluorophenyl)--1,3--dihydro--2H--1,4 --benzodiazepin--2--one)
- (16) Halazepam (7--chloro--1,3--dihydro--5--phenyl--1 --(2,2,2--trifluoroethyl)--2H--1,4--benzodiazepin--2--one)
- (17) Haloxazolam (10--bromo--11b--(o--fluorophenyl) --2,3,7,11b--tetrahydrooxazolo[3,2--d][1,4]benzodiazepin --6(5H)--one)
- (18) Ketazolam (11--chloro--8,12b--dihydro--2,8--dimethyl --12b--phenyl--4H--[1,3]--oxazino--[3,2--d][1,4] benzodiazepine--4,7(6H)--dione)
- (19) Loprazolam (6--(o--chlorophenyl)--2,4--dihydro--2 --[(4--methyl--1--piperazinyl)methylene]--8--nitro--1H --imidazo[1,2--a][1,4]benzodiazepin--1--one)
- (20) Lorazepam (7--chloro--5--(o--chlorophenyl)--1,3 --dihydro--3--hydroxy--2H--1,4--benzodiazepin--2--one)
- (21) Lormetazepam (7--chloro--5--(o--chlorophenyl) --1,3--dihydro--3--hydroxy--1--methyl--2H--1,4 --benzodiazepin--2--one)
- (22) Medazepam (7--chloro--2,3--dihydro--1--methyl --5--phenyl--1H--1,4--benzodiazepine)
- (22.1) Midazolam (8-chloro-6-(o-fluorophenyl)-1-methyl-4H-imidazo[1,5-a][1,4]benzodiazepine)
- (23) Nimetazepam (1,3--dihydro--1--methyl--7--nitro --5--phenyl--2H--1,4--benzodiazepin--2--one)
- (24) Nitrazepam (1,3--dihydro--7--nitro--5--phenyl--2H --1,4--benzodiazepin--2--one)
- (25) Nordazepam (7--chloro--1,3--dihydro--5--phenyl--2H--1,4-- benzodiazepin--2--one)
- (26) Oxazepam (7--chloro--1,3--dihydro--3--hydroxy--5 --phenyl--2H--1,4--benzodiazepin--2--one)

(27) Oxazolam (10--chloro--2,3,7,11b--tetrahydro--2 --methyl--11b--phenyloxazolo[3,2--d][1,4]benzodiazepin--6(5H)--one)

(28) Pinazepam (7--chloro--1,3--dihydro--5--phenyl--1 --(2--propynyl)--2H--1,4--benzodiazepin--2--one)

(29) Prazepam (7--chloro--1--(cyclopropylmethyl)--1, 3--dihydro--5--phenyl--2H--1,4--benzodiazepin--2--one)

(29.1) Quazepam (7-chloro-5-(o-fluorophenyl)-1,3-dihydro-1-(2,2,2-trifluoroethyl)-2H-1,4-benzodiazepine-2-thione)

(30) Temazepam (7--chloro--1,3--dihydro--3--hydroxy--1 --methyl--5--phenyl--2H--1,4--benzodiazepin--2--one)

(31) Tetrazepam (7--chloro--5--(cyclohexen--1--yl)--1,3 --dihydro--1--methyl--2H--1,4--benzodiazepin--2--one)

(32) Triazolam (8--chloro--6--(o--chlorophenyl)--1--methyl --4H--s--triazolo[4,3--a][1,4]benzodiazepine)

but not including:

(32.1) Clozapine (8-chloro-11-(4-methyl-1-piperaziny)-5H-dibenzo[b,e][1,4]diazepine) and any salt thereof

(33) Flunitrazepam (5-(o-fluorophenyl)-1,3-dihydro-1-methyl-7-nitro-2H-1,4-benzodiazepin-2-one) and any salts or derivatives thereof

(34) Olanzapine (2-methyl-4-(4-methyl-1-piperaziny)-10H-thieno[2,3-b][1,5]benzodiazepine) and its salts

19. *Catha edulis* Forsk., its preparations, derivatives, alkaloids and salts, including:

(1) Cathine (d--threo--2--amino--1--hydroxy--1--phenylpropane)

20. Fencamfamin (d,l--N--ethyl--3--phenylbicyclo[2,2,1] heptan--2--amine) and any salt thereof

21. Fenproporex (d,l--3--[(?--methylphenethyl)amino]propionitrile) and any salt thereof

22. Mefenorex (d,l--N--(3--chloropropyl)--?--methylbenzeneethanamine) and any salt thereof

23. Anabolic steroids and their derivatives including:

(1) Androisoxazole (17 β --hydroxy--17?--methylandrostando [3,2--c]isoxazole)

(2) Androstanolone (17 β --hydroxy--5?--androstan--3--one)

(3) Androstenediol (androst--5--ene--3 β ,17 β --diol)

(4) Bolandiol (estr--4--ene--3 β ,17 β --diol)

(5) Bolasterone (17 β --hydroxy--7?,17--dimethylandrostando --4--en--3--one)

(6) Bolazine (17 β --hydroxy--2?--methyl--5?--androstan--3--one azine)

(7) Boldenone (17 β --hydroxyandrosta--1,4--dien--3--one)

(8) Bolenol (19--nor--17?--pregn--5--en--17--ol)

(9) Calusterone (17 β --hydroxy--7 β ,17--dimethylandrostando --4 --en--3--one)

(10) Clostebol (4--chloro--17 β --hydroxyandrostando --4--en--3--one)

(11) Drostanolone (17 β --hydroxy--2?--methyl--5?--androstan--3 --one)

- (12) Enestebol (4, 17 β --dihydroxy--17--methylandrosta--1,4 --dien--3--one)
- (13) Epitiostanol (2?, 3?--epithio--5?--androstan--17 β --ol)
- (14) Ethylestrenol (19--nor--17?--pregn--4--en--17--ol)
- (15) 4--Hydroxy--19--nor testosterone
- (16) Fluoxymesterone (9--fluoro--11 β ,17 β --dihydroxy--17--methylandrosta--4--en--3--one)
- (17) Formebolone (11?, 17 β --dihydroxy--17--methyl--3 --oxoandrosta--1,4 di--en--2--carboxaldehyde)
- (18) Furazabol (17--methyl--5?--androstano[2,3--c] furazan--17 β --ol)
- (19) Mebolazine (17 β --hydroxy--2?,17--dimethyl-- 5?--androstan--3--one azine)
- (20) Mesabolone (17 β --[(1--methoxycyclohexyl)oxy] --5?--androsta--1--en--3--one)
- (21) Mesterolone (17 β --hydroxy--1?--methyl-- 5?--androstan--3--one)
- (22) Metandienone (17 β --hydroxy--17--methylandrosta--1,4 --dien--3--one)
- (23) Metenolone (17 β --hydroxy--1--methyl--5?--androsta--1 --en--3--one)
- (24) Methandriol (17?--methylandrosta--5--ene--3 β ,17 β --diol)
- (25) Methyltestosterone (17 β --hydroxy--17--methylandrosta--4--en--3--one)
- (26) Metribolone (17 β --hydroxy--17--methyl--4, 9,11--trien--3--one)
- (27) Mibolerone (17 β --hydroxy--7?,17--dimethyl--4 --en--3--one)
- (28) Nandrolone (17 β --hydroxy--4--en--3--one)
- (29) Norboletone (13--ethyl--17 β --hydroxy--18, 19--dinorpregn--4--en--3--one)
- (30) Norclostebol (4--chloro--17 β --hydroxy--4--en--3--one)
- (31) Norethandrolone (17?--ethyl--17 β --hydroxy--4--en--3--one)
- (32) Oxabolone (4,17 β --dihydroxy--4--en--3--one)
- (33) Oxandrolone (17 β --hydroxy--17--methyl--2--oxa --5?--androsta--3--one)
- (34) Oxymesterone (4,17 β --dihydroxy--17--methylandrosta--4--en--3--one)
- (35) Oxymetholone (17 β --hydroxy--2--(hydroxymethylene) --17--methyl--5?--androsta--3--one)
- (36) Prasterone (3 β --hydroxyandrosta--5--en--17--one)
- (37) Quinbolone (17 β --(1--cyclopenten--1--yloxy) androsta--1,4--dien--3--one)
- (38) Stanozolol (17 β --hydroxy--17--methyl--5?--androstano [3,2--c]pyrazole)
- (39) Stenbolone (17 β --hydroxy--2--methyl--5?--androsta--1--en--3--one)
- (40) Testosterone (17 β --hydroxyandrosta--4--en--3--one)
- (41) Tibolone ((7?,17?)-17--hydroxy--7--methyl--19--norpregn-- 5(10) en--20--yn--3--one)
- (42) Tiomesterone (1?,7?--bis(acetylthio)--17 β --hydroxy--17--methylandrosta--4--en--3--one)
- (43) Trenbolone (17 β --hydroxy--4,9,11--trien--3--one)

24. Zeranol (3,4,5,6,7,8,9,10,11,12--decahydro--7,14,16-- trihydroxy--3--methyl--1H--2--benzoxacyclotetradecin--1--one)

25. Zolpidem (N,N,6-trimethyl-2-(4-methylphenyl)imidazo[1,2-a]pyridine-3-acetamide) and any salt thereof

25.1 Pemoline (2-amino-5-phenyl-oxazolin-4-one) and any salt thereof

26. Pyrovalerone (4'-methyl-2-(1-pyrrolidinyl)valerophenone) and any salt thereof

1996, c. 19, Sch. IV; SOR/97-230, ss. 11 to 15; SOR/98-173, s. 2; SOR/99-371, s. 3; SOR/99-421, s. 2(E); SOR/2000-220, s. 2; SOR/2003-32, s. 6; SOR/2003-37.

SCHEDULE V

(Sections 2, 4, 6, 55 and 60)

1. [Repealed, SOR/2002-361, s. 1]

2. Propylhexedrine (1--cyclohexyl--2--methylaminopropane) and any salt thereof

3. [Repealed, SOR/2003-32, s. 7]

1996, c. 19, Sch. V; SOR/2002-361, s. 1; SOR/2003-32, s. 7.

SCHEDULE VI

(Sections 2, 6, 55 and 60)

PART 1

CLASS A PRECURSORS²

1. Acetic anhydride

2. N-Acetylanthranilic acid (2-acetamidobenzoic acid) and its salts

3. Anthranilic acid (2-aminobenzoic acid) and its salts

4. Ephedrine (erythro-2-(methylamino)-1-phenylpropan-1-ol), its salts and any plant containing ephedrine or any of its salts

5. Ergometrine (9,10-didehydro-N-(2-hydroxy-1-methylethyl)-6-methylergoline-8-carboxamide) and its salts

6. Ergotamine (12'-hydroxy-2'-methyl-5'-(phenylmethyl)ergotaman-3',6',18-trione) and its salts

7. Isosafrole (5-(1-propenyl)-1,3-benzodioxole)

8. Lysergic acid (9,10-didehydro-6-methylergoline-8-carboxylic acid) and its salts

9. 3,4-Methylenedioxyphenyl-2-propanone (1-(1,3-benzodioxole)-2-propanone)

10. Norephedrine (Phenylpropanolamine) and its salts

11. 1-Phenyl-2-propanone

12. Phenylacetic acid and its salts

13. Piperidine and its salts

14. Piperonal (1,3-benzodioxole-5-carboxaldehyde)

² Original note: Each Class A precursor includes synthetic and natural forms.

15. Potassium permanganate
16. Pseudoephedrine (threo-2-(methylamino)-1-phenylpropan-1-ol), its salts and any plant containing pseudoephedrine or any of its salts
17. Safrole (5-(2-propenyl)-1,3-benzodioxole) and any essential oil containing safrole

PART 2
CLASS B PRECURSORS³

1. Acetone
2. Ethyl ether
3. Hydrochloric acid
4. Methyl ethyl ketone
5. Sulphuric acid
6. Toluene

PART 3
PREPARATIONS AND MIXTURES

1. Any preparation or mixture that contains a precursor set out in Part 1 or 2.
1996, c. 19, Sch. VI; SOR/2002-361, s. 2.

SCHEDULE VII
(Sections 5 and 60)

Substance Amount

1. Cannabis resin 3 kg
2. Cannabis (marihuana) 3 kg

SCHEDULE VIII
(Sections 4 and 60)

Substance Amount

1. Cannabis resin 1 g
2. Cannabis (marihuana) 30 g

1996, c. 19, Sch. VIII; SOR/97-230, s. 16

³ Original note: Each Class B precursor includes synthetic forms.

E/NL.2004/22

**REGULATIONS EXEMPTING CERTAIN PRECURSORS AND CONTROLLED
SUBSTANCES FROM THE APPLICATION OF THE CONTROLLED DRUGS AND
SUBSTANCES ACT¹**

Exemptions

1. The substances set out in Schedule I are exempt from the application of the *Controlled Drugs and Substances Act*.
2. *repealed* (Nov. 20/97)
3. *repealed* (Nov 20/97)

Coming into force

4. These Regulations come into force on the day which the *Controlled Drugs and Substances Act*, chapter 19 of the Statutes of Canada, 1996, comes into force.

SCHEDULE I
(Section 1)

1. Bezitramide (1-(3-cyano-3,3-diphenyl-propyl)-4-(2-oxo-3-propionyl-lbenzimidazoliny) - piperidine)
2. Piritramide (1-(3-cyano-3,3-diphenylpropyl)-4-(1-piperidino) piperidine-4- carboxylic acid amide), its salts, derivatives and salts of derivatives
3. Mecloqualone (2-methyl-3-(2-chlorophenyl)-4(3H)-quinazolinone) and any salt thereof
4. 1-(1-Phenylcyclohexyl)pyrrolidine and any salt thereof
5. Fenetylline (d,1-3,7-dihydro-1,3-dimethyl-7- (2-[(1-methyl-2phenethyl)amino]ethyl)IH-purine-2, 6-dione) and any salt thereof
- 01/9/00 6. *repealed*
7. Glutethimide (2-ethyl-2-phenylglutarimide)
- 01/9/00 8. *repealed*
- 01/9/00 9. *repealed*
- 01/9/00 10. *repealed*
- 01/9/00 11. *repealed*
- 01/9/00 12. *repealed*
- 01/9/00 13. *repealed*
- 01/9/00 14. *repealed*
- 01/9/00 15. *repealed*
- 01/9/00 16. *repealed*
- 01/9/00 17. *repealed*
18. Phenylpropanolamine (2-amino-1-phenyl-1-propanol) and any salt thereof
19. Propylhexedrine (1-cyclohexyl-2-methylaminopropane) and any salt thereof
20. Pyrovalerone (I -(I -pyrrolidiny)butyl p-tolyl ketone) and any salt thereof
21. Benzyl methyl ketone (P2P) (I -phenyl-2-propanone)

¹ Note by the Secretariat: E/NL.2004/21

22. Ephedrine (1-erythro-2-(methylamino)-1-phenyl-propan-1-ol)
23. Ergometrine (9,10-didehydro-N-(2-hydroxy-1-methylethyl)-6-methylergoline-8-carboxamide)
24. Ergotamine (12'-hydroxy-2'-methyl-5'-(phenylmethyl) ergotaman-3',6',18-trione) 25. Lysergic acid (9,10-didehydro-6-methylergoline-8-carboxylic acid)
26. Pseudoephedrine (d-threo-2-(methylamino)-1-phenylpropan-1-ol)

SCHEDULE II
(Section 2)

repealed (Nov. 20.97)

Coming into force

95. This Act or any of its provisions comes into force on a day or days to be fixed by order of the Governor in Council. (note: was May 14, 1997)

E/NL.2004/23

SOR/97-234

Registration 22 April, 1997

CONTROLLED DRUGS AND SUBSTANCES ACT¹

CONTROLLED DRUGS AND SUBSTANCES ACT (POLICE ENFORCEMENT) REGULATIONS

P.C. 1997-632 22 April, 1997

His Excellency the Governor General in Council, on the recommendation of the Solicitor General of Canada, pursuant to subsection 55(2) of the *Controlled Drugs and Substances Act*,² hereby makes the annexed *Controlled Drugs and Substances Act (Police Enforcement) Regulations*.

CONTROLLED DRUGS AND SUBSTANCES ACT (POLICE ENFORCEMENT) REGULATIONS

INTERPRETATION

Definitions

1. The definitions in this section apply in these Regulations.

"Act" means the *Controlled Drugs and Substances Act*.

"appropriate police officer" means

- (a) in the case of the RCMP, the Assistant Commissioner of the RCMP in charge of drug enforcement; and
- (b) in the case of any other police force, the member of the police force who is the most senior officer responsible for operations.

"chief" means, in respect of a police force other than the RCMP, the senior police officer in charge of the police force.

"particular investigation" means a primary investigation of offences contrary to the Act and includes any investigation that arises directly or indirectly from the primary investigation.

"police force" means a police force that is designated pursuant to section 2.

"proceeding" means a preliminary inquiry, trial or other proceeding under the Act or any other Act of Parliament.

"provincial minister" means the provincial minister responsible for policing in a province.

"RCMP" means the Royal Canadian Mounted Police.

¹ Note by the Secretariat: E/NL.2004/21

² Original note: S.C. 1996, c. 19

DESIGNATIONS OF POLICE FORCES

Authority to designate

2. The Solicitor General of Canada and every provincial minister are hereby authorized to designate any police force within the jurisdiction of the Solicitor General or the provincial minister, as the case may be, for the purposes of any or all provisions of these Regulations.

GENERAL EXEMPTION

Sections 5, 6 or 7 of the Act

Street drugs

3. A member of a police force is exempt from the application of section 5, 6 or 7 of the Act, as applicable, where the member engages or attempts to engage in conduct referred to in any of those sections that involves a substance other than a substance referred to in any of subsections 8(1), 11(1) and 13(1) of these Regulations, of which the member has come into possession during a particular investigation, if the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of the particular investigation.

Direction and control

4. A person is exempt from the application of section 5, 6 or 7 of the Act, as applicable, where the person engages or attempts to engage in conduct referred to in any of those sections that involves a substance, other than a substance referred to in any of subsections 8(1), 11(1) and 13(1) of these Regulations, of which the person has come into possession, if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 3(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation.

RCMP notification

5. A member who is exempt, under section 3 of these Regulations, from the application of section 6 of the Act shall notify, in written or electronic format, the Assistant Commissioner of the RCMP in charge of drug enforcement of the importation or exportation of a substance by the member pursuant to section 3 of these Regulations, or by a person under the member's direction or control pursuant to section 4 of these Regulations, before the substance is imported or exported, failing which, as soon as practicable after that time.

Subsection 4(2) of the Act

Double-doctoring

6. A member of a police force is exempt from the application of subsection 4(2) of the Act where the member engages or attempts to engage in conduct referred to in that subsection, if the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation.

Direction and control

7. A person is exempt from the application of subsection 4(2) of the Act where the person engages or attempts to engage in conduct referred to in that subsection, if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 6(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation.

EXEMPTION WITH CERTIFICATE

Section 5 of the Act -- Trafficking

State drugs

8. (1) Subject to section 15, a member of a police force is exempt from the application of section 5 of the Act where the member engages or attempts to engage in conduct referred to in that section that involves a substance that has been forfeited to Her Majesty, that is imported in accordance with section 11 of these Regulations or that is produced in accordance with section 13 of these Regulations, if the member has been issued a certificate.

Conditions for issuing certificate

(2) The appropriate police officer may issue a certificate for a period not exceeding six months for the purposes of subsection (1) to a member of a police force where the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation.

Direction and control

9. Subject to section 16, a person is exempt from the application of section 5 of the Act where the person engages or attempts to engage in conduct referred to in that section that involves a substance that has been forfeited to Her Majesty, that is imported in accordance with section 11 of these Regulations or that is produced in accordance with section 13 of these Regulations, if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 8(2)(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation.

Section 6 of the Act -- Importation or Exportation

Controlled deliveries

10. For the purposes of subsection 11(1) and section 12, a substance requested of and obtained directly from a foreign state does not include a substance that has, for the purpose of identifying any person involved in the commission of an offence under the Act or a conspiracy to commit such an offence, been allowed to pass out of or through a foreign state, with the knowledge and under the supervision of that state's competent authorities.

State drugs

11. (1) A member of a police force is exempt from the application of section 6 of the Act where the member engages or attempts to engage in conduct referred to in that section that involves a substance that has been forfeited to Her Majesty, that is produced in accordance with section 13 of these Regulations or that has been requested of and obtained directly from a foreign state, if the member has been issued a certificate.

Conditions for issuing certificate

(2) The Assistant Commissioner of the RCMP in charge of drug enforcement may issue a certificate for a period not exceeding six months for the purposes of subsection (1) where the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation in which the RCMP participates.

Direction and control

12. A person is exempt from the application of section 6 of the Act where the person engages or attempts to engage in conduct referred to in that section that involves a substance that has been forfeited to Her Majesty, that is produced in accordance with section 13 of these Regulations or that has been requested of and obtained directly from a foreign state, if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 11(2)(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation.

Section 7 of the Act -- Production

State drugs

13. (1) Subject to section 15, a member of a police force is exempt from the application of section 7 of the Act where the member engages or attempts to engage in conduct referred to in that section that involves a substance that has been forfeited to Her Majesty or that is imported in accordance with section 11 of these Regulations, if the member has been issued a certificate.

Conditions for issuing certificate

(2) The appropriate police officer may issue a certificate for a period not exceeding one year for the purposes of subsection (1) to a member of a police force where the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation.

Direction and control

14. Subject to section 16, a person is exempt from the application of section 7 of the Act where the person engages or attempts to engage in conduct referred to in that section that involves a substance that has been forfeited to Her Majesty or that is imported in accordance with section 11 of these Regulations, if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 13(2)(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation.

Section 5 or 7 of the Act in Respect of Offering to Engage

Offering to engage

15. A member of a police force who engages in conduct referred to in section 5 or 7 of the Act by offering to engage in that conduct is exempt, in respect of offering to engage in that conduct, from the application of section 5 or 7 of the Act, if the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation.

Direction and control

16. A person who engages in conduct referred to in section 5 or 7 of the Act by offering to engage in that conduct is exempt, in respect of offering to engage in that conduct, from the application of section 5 or 7 of the Act, if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 15(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation.

CERTIFICATE

Information in certificate

17. A certificate issued under section 8, 11 or 13 shall identify the member of the police force to which it applies, the duration of the exemption and the particular investigation to which it relates.

REVOCAION OF CERTIFICATE

Revocation

18. (1) A certificate issued under section 8, 11 or 13 is revoked on the earliest of

- (a) the date on which the appropriate police officer who issued the certificate revokes it,
- (b) the date on which the member to whom it was issued is no longer an active member of the police force,
- (c) the date on which the member to whom it was issued is no longer acting in the course of the member's responsibilities for the purposes of the particular investigation to which the certificate relates,
- (d) the date on which the particular investigation to which the certificate relates has been completed, or
- (e) the date on which the certificate expires.

Notice

(2) The appropriate police officer shall notify the member to whom a certificate was issued of the revocation on the day on which the certificate is revoked pursuant to paragraph (1)(a), (c) or (d).

OTHER GENERAL EXEMPTIONS

Laundering proceeds of certain offences

18.1 A member of a police force is exempt from the application of section 9 of the Act where the member engages or attempts to engage in conduct referred to in that section, if the member

- (a) is an active member of the police force; and
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation. SOR/97-281, s. 1.

Direction and control

18.2 A person is exempt from the application of section 9 of the Act where the person engages or attempts to engage in conduct referred to in that section if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe meets the conditions set out in paragraphs 18.1(a) and (b); and
- (b) acts to assist the member referred to in paragraph (a) in the course of the particular investigation. SOR/97-281, s. 1.

Conspiracy

19. A member of a police force is exempt from the application of the provisions that create the offence of conspiracy to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under subsection 4(2) or section 5, 6, 7, 8 or 9 of the Act if the member

- (a) is an active member of the police force;
- (b) is acting in the course of the member's responsibilities for the purposes of a particular investigation; and
- (c) engages in conduct that, but for the application of this section, would constitute a conspiracy to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under subsection 4(2) or section 5, 6, 7, 8 or 9 of the Act. SOR/97-281, s. 1.

Direction and control

20. A person is exempt from the application of the provisions that create the offence of conspiracy to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under subsection 4(2) or section 5, 6, 7, 8 or 9 of the Act if the person

- (a) acts under the direction and control of a member of a police force who the person has reasonable grounds to believe
 - (i) is an active member of the police force, and
 - (ii) is acting in the course of the member's responsibilities for the purposes of a particular investigation;
- (b) acts to assist the member in the course of the particular investigation; and

- (c) engages in conduct that, but for the application of this section, would constitute a conspiracy to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under subsection 4(2) or section 5, 6, 7, 8 or 9 of the Act. SOR/97-281, s. 1.

DETENTION OF FORFEITED SUBSTANCES

Forfeited substances

21. (1) The chief or appropriate police officer shall, in writing, as soon as is practicable but not later than 60 days after a forfeited controlled substance or precursor is no longer required for the proceeding in respect of which the controlled substance or precursor was seized,

- (a) where the controlled substance or precursor is required for the purposes of investigating offences contrary to the Act, inform the Minister of that fact; and
- (b) where the controlled substance or precursor is not required for the purposes of investigating offences contrary to the Act,
 - (i) seek directions from the Minister respecting the disposal of or otherwise dealing with the controlled substance or precursor, unless the Minister has previously given such directions, and
 - (ii) dispose of or otherwise deal with the controlled substance or precursor in accordance with the Minister's directions.

Secure

(2) Every controlled substance or precursor referred to in paragraph (1)(a) shall be kept in a secure location while not being used for the purposes of investigating offences contrary to the Act.

Transfer

(3) The chief or appropriate police officer of a police force is exempt from the application of section 5 of the Act where that person transfers any controlled substance or precursor referred to in paragraph (1)(a) to the chief or appropriate police officer of another police force where the chief or appropriate police officer of that other police force requests the transfer for the purposes of a particular investigation.

Inform Minister

(4) Where a transfer is conducted pursuant to subsection (3), the chief or appropriate police officer who

- (a) makes the transfer shall inform the Minister of the transfer, as soon as practicable after the request for the transfer has been received; and
- (b) receives the controlled substance or precursor shall inform the Minister of its receipt, as soon as practicable after the receipt.

Directions

(5) Where a controlled substance or precursor referred to in paragraph (1)(a) is no longer required for the purposes of investigating offences contrary to the Act, the chief or appropriate police officer shall seek the directions of the Minister and dispose of or otherwise deal with the controlled substance or precursor in accordance with those instructions.

REPORTS

Annual report

22. (1) The chief or appropriate police officer shall submit to the Solicitor General of Canada and to the Minister, within three months after the end of every calendar year, a report in written or electronic format containing the information set out in subsection (3), in respect of each of the following controlled substances or precursors that came into the possession of the police force in the course of a particular investigation completed during the calendar year, namely,

- (a) a controlled substance or precursor imported or exported in accordance with section 11;
- (b) a controlled substance produced in accordance with section 13; and
- (c) a forfeited controlled substance or precursor referred to in section 21.

Copy of report

(2) The chief or appropriate police officer of a police force other than the RCMP shall also send a copy of the report referred to in subsection (1) to the provincial minister responsible for the police force.

Contents of report

(3) The report shall indicate the name and total quantity of each controlled substance or precursor and the quantity, in respect of each controlled substance or precursor, that was forfeited, imported, exported, produced or destroyed, as applicable.

Additional report

(4) The chief or appropriate police officer of a police force shall also submit, on request, a report in written or electronic format to the Minister respecting the controlled substances or precursors referred to in subsection (1) as required for the following purposes:

- (a) to ensure the protection of the public against potential public health risks caused by the potential misuse or diversion of those substances;
- (b) to collect data required for studies and research;
- (c) to meet international obligations of the Government of Canada; and
- (d) for compliance with these Regulations.

Report of substances no longer in possession

23. (1) The chief or appropriate police officer shall submit a report in written or electronic format to the Solicitor General of Canada and the Minister containing the information required by subsection (3), respecting every controlled substance or precursor referred to in paragraph 21(1)(a) that is lost, stolen or otherwise no longer in the possession of the police force, as soon as practicable after the substance is lost, stolen or no longer in the possession of the police force.

Copy of report

(2) The chief or appropriate police officer of a police force other than the RCMP shall also send a copy of the report referred to in subsection (1) to the provincial minister responsible for the police force.

Contents of report

(3) The report shall include the following information:

- (a) the name and quantity of each controlled substance or precursor;
- (b) the date of forfeiture, importation or exportation of each controlled substance or precursor, or the production of each controlled substance, as applicable; and
- (c) the date on which and an explanation of the circumstances in which the controlled substance or precursor was lost or stolen or ceased to be in the possession of the police force.

TRANSITIONAL PROVISION

Transitional

24. These Regulations apply in respect of every controlled substance or precursor that was forfeited to Her Majesty before the coming into force of these Regulations and that is in the possession of a police force, except that, in respect of subsection 21(1), the reference to 60 days shall be read as a reference to 120 days after the coming into force of these Regulations.

COMING INTO FORCE

Coming into force

25. These Regulations come into force on the date on which the *Controlled Drugs and Substances Act* comes into force.

E/NL.2004/24

SOR/98-156
Registration 12 March, 1998

CONTROLLED DRUGS AND SUBSTANCES ACT¹

INDUSTRIAL HEMP REGULATIONS

P.C. 1998-352 12 March, 1998

His Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,² hereby makes the annexed *Industrial Hemp Regulations*.

INTERPRETATION

1. The definitions in this section apply in these Regulations.

"Act" means the Controlled Drugs and Substances Act.

"approved cultivar" means any variety of industrial hemp designated by the Minister in accordance with section 39 and set out in the List of Approved Cultivars published by the Department of Health, as amended from time to time.

"competent laboratory" means a laboratory that is owned or operated by a person who is a licensed dealer under section 9 of the Narcotic Control Regulations,³ or a laboratory outside Canada that is recognized as a qualified laboratory, for the application of the United Nations' Single Convention on Narcotic Drugs, 1961, as amended from time to time, by the competent authorities of the country in which it is located.

"designated drug offence" means

(a) an offence against section 39, 44.2, 44.3, 48, 50.2 or 50.3 of the Food and Drugs Act,⁴ as those provisions read immediately before May 14, 1997;

(b) an offence against section 4, 5, 6, 19.1 or 19.2 of the Narcotic Control Act, as those provisions read immediately before May 14, 1997;

(c) an offence under Part I of the Act, except subsection 4(1); and (d) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraphs (a) to (c).

"industrial hemp" means the plants and plant parts of the genera *Cannabis*, the leaves and flowering heads of which do not contain more than 0.3% THC w/w, and includes the derivatives of such plants and plant parts. It also includes the derivatives of non-viable

¹ Note by the Secretariat: E/NL.2004/21

² Original note: S.C. 1996, c. 19

³ Note by the Secretariat: E/NL.2004/26

⁴ Note by the Secretariat: E/NL.2004/17

cannabis seed. It does not include plant parts of the genera Cannabis that consist of non-viable cannabis seed, other than its derivatives, or of mature cannabis stalks that do not include leaves, flowers, seeds or branches, or of fibre derived from those stalks.

"Manual" means the Industrial Hemp Technical Manual published by the Department of Health, as amended from time to time.

"package" includes a sack, bag, barrel, case or any other container in which seed or viable grain, or their derivatives, are placed or packed.

"person" includes a corporation, a cooperative and a partnership.

"plant breeder" means a person who is recognized as a plant breeder pursuant to the circular entitled Regulations and Procedures for Pedigreed Seed Crop Production, as amended from time to time, published by the Canadian Seed Growers' Association.

"process", in respect of seed, viable grain or non-viable cannabis seed, includes conditioning it, pressing it or, in the case of seed or viable grain, rendering it non-viable.

"seed" means any part of an industrial hemp plant that is represented, sold or used to grow a plant.)

"THC" means 9-tetrahydrocannabinol ((6aR, 10aR)-6a,7,8,10-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol).

"variety" has the same meaning as in subsection 2(2) of the Seeds Regulations.

"viable grain" means a viable achene of an industrial hemp plant, not represented, sold or used to grow a plant, that is used for processing.

APPLICATION

2. (1) These Regulations apply to

- (a) the importation, exportation and possession of industrial hemp;
- (b) the production, sale, provision, transport, sending or delivering of industrial hemp; and
- (c) an offer to do anything mentioned in paragraph (b).

(2) These Regulations do not apply to

- (a) the importation, exportation, sale or provision of whole industrial hemp plants, including sprouts, or the leaves, flowers or bracts of those plants;
- (b) the importation, exportation, sale, provision or production of any derivative or product made from whole industrial hemp plants, including sprouts, or the leaves, flowers or bracts of those plants; or
- (c) the importation, exportation, sale or provision of any derivative of seed, viable grain or non-viable cannabis seed, or product made from that derivative, if the derivative or product contains more than 10 µg/g THC.

3. (1) The Act and these Regulations do not apply to the importation, exportation or wholesale sale of a derivative of seed, viable grain or non-viable cannabis seed, or a product made from that derivative, provided that

- (a) the derivative or product was not made from whole industrial hemp plants, including sprouts, or the leaves, flowers or bracts of those plants;

(b) a representative sample from each lot or batch of the derivative or product being imported or exported, or sold at wholesale, has been found to contain 10 µg/g THC or less when tested at a competent laboratory using analytical procedures set out in the Manual;

(c) in the case of importation or exportation, the shipment is accompanied by a certificate from a competent laboratory in the country of origin of the derivative or product that sets out the concentration of THC in the samples; and

(d) in the case of the wholesale sale of a derivative, the package containing the derivative is labelled, "Contains 10 µg/g THC or less".

(2) The Act and these Regulations do not apply to the retail sale, provision, possession, transport, sending or delivering of a derivative of seed, viable grain or nonviable cannabis seed, or a product made from that derivative, whose importation, exportation or wholesale sale has met the requirements set out in subsection (1), as long as the derivative or product is not changed in any way that results in its containing more than 10 µg/g THC.

PROHIBITION

4. No person shall advertise industrial hemp, its derivatives, or any product made from those derivatives to imply that it is psychoactive.

LICENSING AND AUTHORIZATION

5. (1) A person who holds a licence is entitled to engage in any of the following activities that are permitted by the licence:

(a) the importation or exportation of industrial hemp;

or

(b) the production, sale or provision of industrial hemp.

(2) In addition to holding a licence, an importer or exporter shall hold a permit issued under subsection 22(1) or 27(1) for each shipment of industrial hemp that is imported or exported.

(3) A person who holds a licence to engage in an activity in respect of industrial hemp is permitted to possess, transport, send or deliver industrial hemp to the extent necessary to conduct the licensed activity.

(4) A person who holds a licence to sell or provide industrial hemp is permitted to offer to sell or provide it to the extent necessary to conduct the licensed activity.

(5) A person who does not hold a licence is entitled to possess, transport, send or deliver industrial hemp, or offer to engage in that activity, if the person holds an authorization to engage in that activity.

6. Any person who acts under the direction or control of a person who holds a licence or authorization is entitled to engage in the activity for which the licence or authorization was issued to the same extent as if the person were the holder.

Application

7. To be eligible to hold a licence, permit or authorization, a person must

(a) if the person is an individual, ordinarily reside in Canada or, if the person is a partnership, at least one of its partners is an individual who ordinarily resides in Canada; or

(b) if the person is a corporation or cooperative, have its head office in Canada or operate a branch office in Canada.

8. (1) A person who applies for a licence or authorization shall submit the following information and documents to the Minister, on a form provided by the Department of Health:

(a) the applicant's name, their mailing address and phone number in Canada and, if applicable, their fax number and electronic mail address;

(b) the applicant's date of birth or, in the case of a corporation, cooperative or partnership, the names and dates of birth of its officers, directors and partners, as the case may be;

(c) in the case of a corporation or cooperative, a copy of the certificate of incorporation or other constating instrument, and, in the case of a corporation, cooperative or partnership, a copy of any document registering with a province the name and style under which it operates or intends to operate;

(d) the activity for which the licence or authorization is requested;

(e) the form in which the industrial hemp is to be imported, exported, produced, sold, provided, possessed, transported, sent or delivered, as the case may be;

(f) the address of each place where the industrial hemp is to be stored, sold or provided, indicating for each place the form of the industrial hemp;

(g) in the case of the cultivation of industrial hemp,

(i) the approved cultivar that will be sown, or the variety of industrial hemp if the applicant is a plant breeder,

(ii) the number of hectares to be cultivated for seed or viable grain and the number of hectares to be cultivated for fibre,

(iii) the number of hectares cultivated for industrial hemp, at each site, in each of the previous two years,

(iv) the Global Positioning System coordinates to situate each site to be cultivated and a map showing the location of the site in terms of its legal description,

(v) if any part of the site is to be cultivated for seed or viable grain, the Global Positioning System coordinates to situate that part of the site, and an indication on the map of its location within the site,

(vi) a statement that the applicant is the owner of the land to be used for the cultivation or a statement, signed by the owner of the land, indicating that he or she has consented to that use,

(vii) if the applicant is cultivating for seed, evidence that he or she is a member of the Canadian Seed Growers' Association, and

(viii) if the applicant is cultivating to produce breeder seed or a new variety of industrial hemp, evidence that he or she is a plant breeder;

(h) in the case of the processing of seed, viable grain or non-viable cannabis seed

(i) the address of each place at which the processing will take place, and

(ii) if the application is for conditioning seed or viable grain, a copy of the Certificate of Registration issued under Part IV of the Seeds Regulations for the establishment at which the conditioning will take place;

- (i) in the case of an importer of seed or viable grain, a copy of the Certificate of Registration issued under Part IV of the Seeds Regulations for the establishment at which the imported seed or viable grain will be prepared, and the address of that establishment;
 - (j) for each establishment mentioned in paragraphs (h) and (i), the name of the individual who is licensed under section 96 of the Seeds Regulations as the operator of the establishment and a copy of his or her licence;
 - (k) in the case of the owner or operator of a laboratory who intends to possess industrial hemp for the purpose of testing for viability, evidence that the laboratory has been designated as an accredited laboratory under section 14 of the Canada Agricultural Products Act, and the address of the laboratory;
 - (l) the address of the place in Canada where the applicant will keep the records, books, electronic data or other documents that are required by these Regulations to be kept;
 - (m) in respect of the applicant, each officer and director in the case of a corporation or cooperative and each partner in the case of a partnership, a document issued by a Canadian police force setting out for the previous 10 years his or her criminal record in respect of any designated drug offences, or indicating that the person has no such record;
 - (n) in addition to the document referred to in paragraph (m), for any officer, director or partner who ordinarily resides in a country other than Canada, a document issued by a police force of that country setting out for the previous 10 years his or her criminal record in respect of any offence that if committed in Canada would constitute a designated drug offence, or indicating that the person has no such record; and
 - (o) a statement that the applicant will meet the security measures required by these Regulations in respect of the activity.
- (2) An application shall be signed by the applicant or, in the case of a corporation, cooperative or partnership, one of its officers, directors or partners, as the case maybe, and indicate that all information and documents submitted in support of the application are correct and complete to the best of his or her knowledge.

Issuance

9. (1) Subject to subsection (2), the Minister shall, on receipt of an application containing the information and documents required under section 8, issue a licence or authorization that sets out the following:
- (a) the licence or authorization number;
 - (b) the name of the person to whom the licence or authorization is issued;
 - (c) the activities that are permitted, and the location at which each activity is permitted;
 - (d) the address of the place referred to in paragraph 8(1)(f), (h), (i) or (k), or the number of hectares and Global Positioning System coordinates referred to in paragraph 8(1)(g);
 - (e) the form of industrial hemp for which each activity is permitted;
 - (f) in the case of a plant breeder, the variety of industrial hemp that may be cultivated; and
 - (g) any conditions that are necessary to minimize security, public health or safety hazards related to the licensed or authorized activities.
- (2) The Minister shall refuse to issue a licence or authorization in the following cases:

(a) if the applicant will have any single area of less than four hectares (10 acres) of industrial hemp under cultivation for viable grain or for fibre;

(b) if the applicant will have any single area of less than 0.4 hectare (1 acre) of industrial hemp under cultivation for seed, unless the applicant is a plant breeder;

(c) if the applicant, in each of the previous two years for which he or she was licensed under these Regulations,

(i) had any single area of less than four hectares(10 acres) of industrial hemp under cultivation for viable grain or for fibre, or

(ii) had any single area of less than 0.4 hectare(1 acre) of industrial hemp under cultivation for seed, unless the applicant is a plant breeder;

(d) if the application is for conditioning or importing seed or viable grain, the applicant does not own or operate an establishment registered under Part IV of the Seeds Regulations that will condition or prepare, as the case may be, the seed or viable grain;

(e) if false or misleading information, or false or falsified documents, have been submitted in or with the application;

(f) if in the previous five years the applicant has had a licence or authorization under the Act revoked or, in the case of a corporation, cooperative or partnership, any of its officers, directors or partners, as the case may be, has had such a licence or authorization revoked or has been an officer, director or partner of a corporation, cooperative or partnership, as the case may be, that has had such a licence or authorization revoked, except if the revocation was due to loss or theft of the licence or authorization;

(g) if the applicant or, in the case of a corporation, cooperative or partnership, any of its officers, directors or partners, as the case may be, has a criminal record that includes within the previous 10 years

(i) a designated drug offence, or

(ii) if he or she ordinarily resides in a country other than Canada, an offence that if committed in Canada would constitute a designated drug offence;

(h) if the applicant does not meet the security measures required by these Regulations in respect of the activity; or

(i) if the applicant or, in the case of a corporation, cooperative or partnership, any of its officers, directors or partners, as the case may be, is less than 18 years of age.

(3) The Minister may refuse to issue a licence or authorization if the applicant has not complied with any provision of these Regulations or any condition set out in previous licence or authorization.

(4) The Minister may not refuse to issue a licence or authorization unless the Minister

(a) has provided the applicant with a written report setting out the reasons for the proposed refusal;

(b) has given the applicant an opportunity to be heard, either by written or oral representations, in respect of the proposed refusal; and

(c) has sent a notice of refusal to the applicant.

(5) A licence or authorization is valid for the calendar year for which it is issued.

Amendments

10. (1) Where the holder of a licence or authorization requires an amendment to the licence or authorization, he or she may submit a written request to the Minister, together with the licence or authorization. Subject to subsections (2) and (3), on receipt of the request, the Minister shall amend the licence or authorization accordingly.

(2) The Minister shall refuse to amend the licence or authorization if there exists any circumstance that would require its issuance to be refused under subsection 9 (2).

(3) The Minister may refuse to amend the licence or authorization if there exists any circumstance that would permit its issuance to be refused under subsection 9 (3).

Notification

11. (1) The holder of a licence or authorization shall notify the Minister of the following changes, within 15 days after the change:

(a) in the case of a corporation, cooperative or partnership, the addition or replacement of an officer, director or partner, as the case may be;

(b) a change to the address referred to in paragraph 8(1)(l);

(c) the replacement of an individual referred to in paragraph 8(1)(j);

(d) a change in the mailing address of the holder;

(e) a change in the ownership of the land used to cultivate industrial hemp;

(f) a change to the approved cultivar being sown or, in the case of a plant breeder, to the variety of industrial hemp being sown;

(g) the revocation or expiration of a certificate or licence required to be submitted with the application; and

(h) the revocation or expiration of the licence holder's membership in the Canadian Seed Growers' Association.

(2) If the notification is in respect of the addition or replacement of an officer, director or partner, the holder of the licence or authorization shall provide the Minister with the documents referred to in paragraphs 8 (1)(m) and (n) in respect of that person.

(3) If the notification is in respect of a change of ownership referred to in paragraph (1)(e), the holder of the licence or authorization shall provide the Minister with a statement signed by the new owner of the land, indicating that he or she has consented to the land being used to cultivate industrial hemp.

12. The holder of a licence, authorization or permit shall notify the Minister as soon as possible of its loss or theft.

Revocation

13. (1) The Minister shall revoke a licence or authorization at the request of the holder, or on being notified by the holder that the licence or authorization has been lost or stolen.

(2) Subject to subsection (4), the Minister shall revoke a licence or authorization in the following cases:

(a) if false or misleading information, or false or falsified documents, have been submitted in or with the application;

(b) if the Minister has been informed, and has verified, that the holder or, in the case of a corporation, cooperative or partnership, any of its officers, directors or partners, as the case may be, has a criminal record that includes within the previous 10 years

(i) a designated drug offence, or

(ii) if he or she ordinarily resides in a country other than Canada, an offence that if committed in Canada would constitute a designated drug offence;

(c) in the case of a corporation, cooperative or partnership, if any person who is less than 18 years of age is named as an officer, director or partner, as the case may be;

(d) where the holder of a certificate or licence that was required to be submitted with the application no longer holds the certificate or licence;

(e) where a laboratory that has been designated as an accredited laboratory under section 14 of the Canada Agricultural Products Act no longer holds that designation; or

(f) in the case of a person who cultivates for seed, he or she is no longer a member of the Canadian Seed Growers' Association.

(3) Subject to subsection (4), the Minister may revoke a licence or authorization, where it is necessary to protect the security, safety or health of the public, if the Minister has reasonable grounds to believe that the holder has failed to comply with any provision of these Regulations or any condition of the licence or authorization.

(4) The Minister may not revoke a licence or authorization under subsection (2) or (3) unless

(a) the Minister has provided the holder of the licence or authorization with a written report setting out the reasons for the proposed revocation;

(b) the Minister has given the holder an opportunity to be heard, either by written or oral representations, in respect of the proposed revocation;

(c) the holder has not taken any corrective measures that are required by the Minister, within the time specified by the Minister; and

(d) the Minister has sent a notice of revocation to the holder.

CULTIVATION

14. (1) A person who holds a licence to cultivate industrial hemp, other than as a plant breeder, may sow in a region only seed that is an approved cultivar for that region.

(2) A plant breeder may sow only the variety of industrial hemp specified on his or her licence.

(3) On and after January 1, 2000, an approved cultivar referred to in subsection (1) must be of a pedigreed status, as defined in subsection 2(2) of the Seeds Regulations.

15. (1) A person who holds a licence to cultivate industrial hemp only for fibre shall harvest the crop before the achene's of 50% of the plants are resistant to compression.

(2) A person who holds a licence to cultivate industrial hemp shall, at the time of harvesting the crop, dispose of the branches, leaves and flowering heads by retting or by otherwise rendering them into a condition such that they cannot be used for any purpose not permitted under the Act.

16. (1) Unless testing is not required for an approved cultivar in a region, as indicated in the List of Approved Cultivars, a person who holds a licence to cultivate industrial hemp shall, in order to determine the concentration of THC in the hemp,

- (a) have samples of the industrial hemp collected in accordance with the methods set out in the Manual; and
 - (b) have the samples tested at a competent laboratory using analytical procedures set out in the Manual.
- (2) The results of each laboratory test shall be submitted to the Minister within 15 days after the test, together with the name of the approved cultivar to which the test relates.
17. A person who holds a licence to cultivate industrial hemp shall ensure that all equipment that is used to sow or harvest the hemp is thoroughly cleaned after each such use in order to avoid the inadvertent dissemination of industrial hemp.

IMPORTATION

18. A person who is licensed to import seed may import only seed that is of an approved cultivar or, in the case of a plant breeder, seed of a variety of industrial hemp specified on his or her licence.
19. (1) When viable grain is imported, the importer shall ensure that each shipment is accompanied by a document, issued by the competent authorities of a country or an association of countries set out in the List of Countries Approved for the Importation of Viable Grain published by the Department of Health, as amended from time to time, that establishes that the viable grain originated from that country or a country that is a member of that association of countries.
- (2) The Minister shall add a country or association of countries to that List where the Minister has reasonable grounds to believe that their controls on the production of viable grain meet requirements that
- (a) are equivalent to those set out in these Regulations; and
 - (b) ensure that the viable grain will not produce a plant containing more than 0.3% THC w/w in its leaves and flowering heads.
- (3) The Minister shall remove from that List a country or association of countries that no longer meets those requirements.
20. No person shall import seed or viable grain solely for the purpose of conditioning, unless it is of an approved cultivar that will be exported once it has been conditioned.
21. (1) An importer who applies for a permit to import industrial hemp shall submit the following information to the Minister, on a form provided by the Department of Health:
- (a) the name and number on the importer's licence;
 - (b) the name and address of the person from whom the industrial hemp is being purchased;
 - (c) the port of entry;
 - (d) the address of the customs office, sufferance warehouse or bonded warehouse, as defined in the Customs Act, to which the shipment is to be delivered;
 - (e) each mode of transportation;
 - (f) the form in which the industrial hemp is to be imported, the quantity of each form, the variety of industrial hemp, if applicable, the country of origin of each form of the industrial hemp and the countries of transit and transshipment; and
 - (g) a statement certifying that the package and the contents do not contravene any known requirement of the laws of the country from which the industrial hemp is imported, or any country of transit or transshipment.

(2) An application shall be signed by the applicant or, in the case of a corporation, cooperative or partnership, one of its officers, directors or partners, as the case maybe, and indicate that all information submitted in support of the application is correct and complete to the best of his or her knowledge.

22. (1) Subject to subsection (2), on receipt of an application for an import permit, the Minister shall issue the permit.

(2) The Minister shall refuse to issue an import permit if

(a) the applicant does not hold a licence to import industrial hemp or has been notified that a new licence is to be refused under subsection 9(2) or (3);

(b) the applicant has provided false or misleading information in the application; or

(c) the Minister has reasonable grounds to believe that the shipment for which the permit is requested will contravene these Regulations.

(3) An import permit is valid for a maximum of three months, as specified on the permit, or until the permit holder's licence expires, whichever is earlier.

23. A person who is licensed to import industrial hemp shall ensure that the original copy of the import permit is attached to the shipment of the industrial hemp.

24. Within 20 days after the date of release of a shipment in Canada, the importer shall provide the Minister with a declaration that contains the following information:

(a) the name and numbers on the importer's licence and permit;

(b) the date of release of the shipment of industrial hemp;

(c) the quantity of industrial hemp received; and

(d) if the shipment consists of seed,

(i) evidence establishing that the seed is an approved cultivar or, in the case of a plant breeder, that it is a variety of industrial hemp specified on the plant breeder's licence, and

(ii) for shipments released on and after January 1, 2000, evidence establishing that the approved cultivar is of a pedigreed status, as defined in subsection 2(2) of the Seeds Regulations.

25. The Minister shall revoke an import permit

(a) at the request of the permit holder;

(b) on being notified by the permit holder that the permit has been lost or stolen;

(c) if the permit holder's licence is revoked; or

(d) if the Minister has reasonable grounds to believe, in respect of a shipment, that the package or the contents contravene any known requirement of the laws of the country from which the industrial hemp is imported, or any country of transit or transshipment.

EXPORTATION

26. (1) An exporter who applies for a permit to export industrial hemp shall submit the following information to the Minister, on a form provided by the Department of Health:

(a) the name and number on the exporter's licence;

(b) the name and address of the person to whom the shipment of industrial hemp is to be consigned;

- (c) the port of exit;
- (d) the address of the customs office, sufferance warehouse or bonded warehouse, as defined in the Customs Act, at which the shipment is presented for exportation;
- (e) each mode of transportation;
- (f) the form in which the industrial hemp is to be exported, the quantity of each form, the variety of industrial hemp, if applicable, the country of origin of each form of the industrial hemp and the countries of transit and transshipment; and
- (g) a statement certifying that the package and the contents do not contravene any known requirement of the laws of the country to which the industrial hemp is or is about to be consigned, or any country of transit or transshipment.

(2) An application shall be signed by the applicant or, in the case of a corporation, cooperative or partnership, one of its officers, directors or partners, as the case maybe, and indicate that all information submitted in support of the application is correct and complete to the best of his or her knowledge.

27. (1) Subject to subsection (2), on receipt of an application for an export permit, the Minister shall issue the permit.

(2) The Minister shall refuse to issue an export permit if

- (a) the applicant does not hold a licence to export industrial hemp or has been notified that a new licence is to be refused under subsection 9(2) or (3); or
- (b) the applicant has provided false or misleading information in the application.

(3) An export permit is valid for a maximum of three months, as specified on the permit or until the permit holder's licence expires, whichever is earlier.

28. A person who is licensed to export industrial hemp shall ensure that the original copy of the export permit is attached to the shipment of the industrial hemp.

29. Within 20 days after the date of exportation, the exporter shall provide the Minister with a declaration that contains the following information:

- (a) the name and numbers on the exporter's licence and permit;
- (b) the date of exportation of the industrial hemp; and
- (c) the quantity of industrial hemp exported.

30. The Minister shall revoke an export permit

- (a) at the request of the permit holder;
- (b) on being notified by the permit holder that the permit has been lost or stolen;
- (c) if the permit holder's licence is revoked; or
- (d) if the Minister has reasonable grounds to believe, in respect of a shipment of industrial hemp, that the package or the contents contravene any known requirement of the laws of the country to which it will be exported, or any country of transit or transshipment.

POSSESSION

31. Every person who possesses seed or viable grain for the purpose of rendering it non-viable shall

- (a) render it non-viable in accordance with the methods set out in the Manual;

- (b) have it tested for viability at a laboratory that is designated as an accredited laboratory under section 14 of the Canada Agricultural Products Act; and
- (c) keep the records that demonstrate that the rendering process was successful.

GENERAL

32. (1) Seed or viable grain shall be transported and stored in a package that is sealed in a way that makes it impossible to open the package easily without leaving evidence of its having been opened, and that is marked in a manner that is sufficient to identify the package.

(2) No person shall sell viable grain to a person who holds a licence to cultivate industrial hemp unless the holder is also licensed to produce a derivative of industrial hemp.

33. Every licence holder who is required by these Regulations to have the THC concentration in industrial hemp tested, or to maintain records of that testing, shall keep a representative sample of the industrial hemp tested for at least two years. The sample must be collected in accordance with the Manual.

34. Every person who holds a licence or authorization shall report as soon as possible to the Minister any theft or loss of industrial hemp, specifying the form of the hemp.

35. Every person who holds a licence or authorization shall post in a conspicuous place, at the place where they keep their records, books, electronic data or other documents that are required by these Regulations to be kept,

- (a) the original or a copy of their licence or authorization; and
- (b) a copy, if any, of their certificate of membership in the Canadian Seed Growers' Association and any certificate or licence required to be submitted with their application.

SECURITY MEASURES

36. No person who holds a licence to cultivate industrial hemp shall cultivate it within one kilometre of any school grounds or any other public place usually frequented by persons under the age of 18 years.

37. Every person who holds a licence or authorization shall, in respect of all industrial hemp that they store, keep it in a locked container or a locked location, or on premises to which only authorized persons have access.

RECORDS, BOOKS, ELECTRONIC DATA AND OTHER DOCUMENTS

38. (1) Every person who holds a licence or authorization shall keep, at the place referred to in paragraph 8(1)(l), the records, books, electronic data or other documents that contain the following information:

- (a) the form in which the industrial hemp is imported, purchased or sold, and the variety of industrial hemp, if applicable;
- (b) the quantity of each form of industrial hemp imported, purchased or sold;
- (c) in the case of a person who holds a licence to cultivate industrial hemp, the quantity of seed of each approved cultivar that is sown, or of each variety of industrial hemp if the person is a plant breeder, the quantity of seed or viable grain harvested and the date of harvest;
- (d) the source of the industrial hemp imported or purchased, namely the name and address of the person who exported or sold it and the country of origin, if applicable;
- (e) the destination of the industrial hemp that is sold, namely, the name and address of the purchaser and the country to which it is exported, if applicable;

- (f) the date that each shipment of industrial hemp is sent or received;
 - (g) in the case of a person who ships industrial hemp, the name of the carrier; and
 - (h) the results of any tests required by these Regulations.
- (2) Every person who holds a licence to provide, sell or import seed or viable grain shall also keep records, books, electronic data or other documents that contain the following information:
- (a) the name, address and licence number of the person to whom the seed or viable grain is delivered;
 - (b) the date of each shipment;
 - (c) the quantity shipped;
 - (d) the identifying mark referred to in subsection 32(1); and
 - (e) if applicable, the name and licence number of the person from whom the seed or viable grain was purchased, the date it was purchased, the quantity purchased and the identifying mark referred to in subsection 32(1).
- (3) The information specified in subsections (1) and(2) shall be kept for at least two years after it was obtained.
- (4) A person who holds a licence or authorization shall provide to an inspector, on request, any of the records, books, electronic data or other documents required to be kept under subsections (1) and (2), in order that the inspector may verify whether the person has complied with the Act and these Regulations.

APPROVED CULTIVARS

39. (1) The Minister shall designate a variety of industrial hemp as an approved cultivar for a region if
- (a) it is a variety of hemp that is recognized by the Canadian Seed Growers' Association, the Canadian Food Inspection Agency or the Organisation for Economic Cooperation and Development; and
 - (b) the Minister has reasonable grounds to believe that the cultivar is likely to produce a plant that will contain 0.3% THC w/w or less in its leaves and flowering heads when it is cultivated in the region of Canada for which it is to be designated.
- (2) Where the Minister has reasonable grounds to believe, based on the results of tests conducted in accordance with section 16, that hemp of an approved cultivar consistently contains 0.3% THC w/w or less when it is cultivated in a region, the Minister shall indicate in the List of Approved Cultivars that further testing under that section is not required for that cultivar in that region.
- (3) The Minister shall revoke the designation of a variety of industrial hemp for a region if that variety
- (a) is no longer recognized as a variety of hemp by the Canadian Seed Growers' Association, the Canadian Food Inspection Agency or the Organisation for Economic Cooperation and Development; or
 - (b) when tested by a competent laboratory using analytical procedures set out in the Manual, does not produce results demonstrating that it consistently produces a plant that contains 0.3% THC w/w or less in its leaves and flowering heads when it is cultivated
 - (i) in a country or a part of a country with growing conditions that are similar to the region of Canada for which it is designated, or

(ii) in the region of Canada for which it is designated.

COMING INTO FORCE

40. These Regulations come into force on March 12, 1998.

E/NL.2004/25

SOR/98-594

Registration 10 December, 1998

CONTROLLED DRUGS AND SUBSTANCES ACT

QUALIFICATION FOR DESIGNATIONS AS ANALYST REGULATIONS

P.C. 1998-2182 10 December, 1998

His Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to paragraph 55(1)(o) of the Controlled Drugs and Substances Act,¹ hereby makes the annexed Qualifications for Designations as Analysts Regulations.

QUALIFICATIONS FOR DESIGNATIONS AS ANALYSTS REGULATIONS
QUALIFICATIONS

1. The Minister may, pursuant to section 44 of the Controlled Drugs and Substances Act,² designate a person as an analyst if the person has the following qualifications:

- (a) a degree in a science related to the work to be carried out, awarded by
 - (i) a Canadian university, or
 - (ii) a foreign university recognized by a Canadian university or professional association;
or
- (b) a combination, sufficient to perform the duties of the position, of
 - (i) practical experience in the area of responsibility, and
 - (ii) formal education in a science related to the work to be carried out or other training related to that work.

COMING INTO FORCE

2. These Regulations come into force on the day on which they are registered.

¹ Original note: S.C. 1996, c.19

² Note by the Secretariat: E/NL.2004/21

E/NL.2004/26

NARCOTIC CONTROL REGULATIONS
C.R.C., c. 1041
CONTROLLED DRUGS AND SUBSTANCES ACT
REGULATIONS RESPECTING THE CONTROL OF NARCOTICS

SHORT TITLE

1. These Regulations may be cited as the *Narcotic Control Regulations*.

INTERPRETATION

2. In these Regulations,

"Act" means the *Controlled Drugs and Substances Act*;¹

"advertisement" means any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of a narcotic;

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year;

"designated drug offence" means

(a) an offence against section 39, 44.2, 44.3, 48, 50.2 or 50.3 of the *Food and Drugs Act*,² as those provisions read immediately before May 14, 1997,

(b) an offence against section 4, 5, 6, 19.1 or 19.2 of the *Narcotic Control Act*, as those provisions read immediately before May 14, 1997,

(c) an offence under Part I of the Act, except subsection 4(1), or

(d) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in any of paragraphs (a) to (c);

"diacetylmorphine (heroin)" includes the salts of diacetylmorphine;

"hospital" means a facility

(a) that is licensed, approved or designated by a province in accordance with the laws of the province to provide care or treatment to persons or animals suffering from any form of disease or illness, or

(b) that is owned or operated by the Government of Canada or the government of a province and that provides health services;

"inspector" [Repealed, SOR/97-227, s. 1]

¹ Note by the Secretariat: E/NL.2004/21

² Note by the Secretariat: E/NL.2004/17

"licence" means a licence issued under section 9;

"licensed dealer" means the holder of a licence;

"methadone" includes the salts of methadone;

"Minister" [Repealed, SOR/97-227, s. 1]

"narcotic" means any substance set out in the schedule or anything that contains any substance set out in the schedule;

"oral prescription narcotic" [Repealed, SOR/85-588, s. 1]

"permit" means a permit issued under section 10;

"pharmacist"

(a) means a person who is registered and entitled under the laws of a province

(i) to practise pharmacy, and

(ii) to operate a pharmacy or dispensary

and who is operating a pharmacy or dispensary and is practising pharmacy thereunder in that province, and

(b) includes, for the purpose of sections 3, 31 to 39, subsections 44(1), 45(1) and (2), section 46 and subsections 65(3) and (4), a person who is registered and entitled under the laws of a province to practise pharmacy and who is practising pharmacy in that province;

"practitioner" [Repealed, SOR/97-227, s. 1]

"prescription" means, in respect of a narcotic, an authorization given by a practitioner that a stated amount of the narcotic be dispensed for the person named in the prescription;

"proper name", with reference to a narcotic, means the name internationally recognized for the narcotic or the name assigned to the narcotic in the latest edition of any generally recognized pharmacopoeia or compendium of drugs;

"test kit" means an apparatus

(a) that contains reagent systems or buffering agents or both,

(b) that is used in the course of a chemical or analytical procedure for medical, laboratory, industrial, educational or research purposes, and

(c) the contents of which are not intended for administration to humans;

"verbal order" means an order given orally;

"verbal prescription narcotic" means medication that

(a) contains in addition to a narcotic two or more medicinal ingredients other than a narcotic in a recognized therapeutic dose,

(b) is not intended for parenteral administration, and

(c) does not contain diacetylmorphine (heroin), hydrocodone, methadone, oxycodone or pentazocine. (*stupéfiant d'ordonnance verbale*) SOR/78-154, s. 1; SOR/81-361, s. 1; SOR/85-588, s. 1; SOR/85-930, s. 1; SOR/86-173, s. 1; SOR/88-279, s. 1(F); SOR/90-189, s. 1; SOR/97-227, s. 1; SOR/2003-134, s. 1.

"written order" [Repealed, SOR/85-588, s. 1]

POSSESSION

3. (1) A person is authorized to have a narcotic in his or her possession where the person has obtained the narcotic under these Regulations, in the course of activities performed in connection with the enforcement or administration of an Act or regulation, or from a person who is exempt under section 56 of the Act from the application of subsection 5(1) of the Act with respect to that narcotic, and the person

- (a) requires the narcotic for his business or profession and is
 - (i) a licensed dealer,
 - (ii) a pharmacist, or
 - (iii) a practitioner who is registered and entitled to practise in the province in which he has such possession;
 - (b) is a practitioner who is registered and entitled to practise in a province other than the province in which he has such possession and such possession is for emergency medical purposes only;
 - (c) is a hospital employee or a practitioner in a hospital;
 - (d) has obtained the narcotic, other than diacetylmorphine (heroin), for his own use
 - (i) from a practitioner,
 - (ii) pursuant to a prescription that is not issued or obtained in contravention of these Regulations, or
 - (iii) from a pharmacist pursuant to section 36;
 - (e) is a practitioner of medicine who received the narcotic pursuant to subsection 68(3) or (5) and his possession is for a purpose referred to in subsection 68(4) or (6);
 - (f) is an agent of a practitioner of medicine who received the narcotic pursuant to section 68(3) and his possession is for the purpose of complying with subsection 68(5);
 - (g) is employed as an inspector, a member of the Royal Canadian Mounted Police, a police constable, peace officer or member of the technical or scientific staff of any department of the Government of Canada or of a province or university and such possession is for the purposes of and in connection with such employment;
 - (h) is a person other than a person referred to in paragraph (e) or (f), is exempted under section 56 of the Act with respect to the possession of that narcotic and whose possession is for a purpose set out in the exemption; or
 - (i) is a person referred to in paragraph 68(4)(b).
- (2) A person is authorized to have a narcotic in his possession where the person is acting as the agent for any person referred to in paragraphs (1)(a) to (e), (h) or (i).
- (2.1) A person is authorized to have a narcotic in his possession where
- (a) the person is acting as the agent for a person he has reasonable grounds to believe is a person referred to in paragraph (1)(g); and

- (b) the possession of the narcotic is for the purpose of assisting that person in the enforcement or administration of an Act or regulation.
- (3) A person in whose favour a prescription or a narcotic has been issued shall not seek or receive another prescription or a narcotic from a different practitioner without disclosing to that practitioner particulars of every prescription or narcotic that he has obtained within the previous 30 days. SOR/85-588, s. 2; SOR/85-930, s. 2; SOR/97-227, s. 2; SOR/99-124, s. 1.

TEST KITS CONTAINING NARCOTICS

- 4. Any person may sell, possess or otherwise deal in a test kit that contains a narcotic if
 - (a) a registration number has been issued for the test kit pursuant to section 6;
 - (b) the test kit bears, on its external surface,
 - (i) the manufacturer's name,
 - (ii) the trade name or trade mark, and
 - (iii) the registration number issued therefor pursuant to section 6;
 - (c) the test kit is sold, possessed or otherwise dealt in for the purpose of medical, laboratory, industrial, educational or research use; and
 - (d) the registration number has not been cancelled pursuant to section 7.
- 5. The manufacturer of a test kit that contains a narcotic may apply for a registration number therefor by submitting to the Director an application containing
 - (a) particulars of the design and construction of the test kit;
 - (b) a detailed description of the narcotic and other substances, if any, contained in the test kit, including the qualitative and quantitative composition of each component;
 - (c) a statement of the proposed use of the test kit; and
 - (d) any further information and material that the Minister may require in order to satisfy himself that the test kit is one for which a registration number may be issued.
- 6. Where, on application under section 5, the Minister is satisfied that the test kit to which the application applies will only be used for medical, laboratory, industrial, educational or research use and that it
 - (a) contains a narcotic and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration that the preparation or mixture has no significant drug abuse potential, or
 - (b) contains such small quantities or concentrations of any narcotic substance as to have no significant drug abuse potential,the Minister may issue a registration number for the test kit, which shall be a number preceded by the letters "TK". SOR/81-22, s. 1.
- 7. The Minister may cancel the registration number for a test kit if the test kit is removed from the market by the manufacturer or if, in the Minister's opinion,
 - (a) it is necessary to cancel the registration number in the interest of public health;or

- (b) the test kit for which the registration number is issued is used or is likely to be used for any purpose other than medical, laboratory, industrial, educational or research use.

LICENCES AND LICENSED DEALERS

8. (1) Subject to these Regulations, no person except a licensed dealer shall manufacture, import or export, sell, give, transport, send, deliver or distribute a narcotic.

(2) No licensed dealer may import or export a narcotic without a permit.

8.1 A licensed dealer is authorized to have a narcotic in his possession for the purpose of exporting the narcotic from Canada if he has obtained the narcotic pursuant to these Regulations. SOR/97-514, s. 1.

9. (1) The Minister may, upon application therefor, issue a licence to any person who, in the opinion of the Minister, is qualified to be a licensed dealer for the sale, manufacture, production or distribution of a narcotic.

(2) An applicant for a licence shall specify in the application the narcotics in respect of which the licence is to apply.

(3) A licensed dealer may only sell, manufacture, produce or distribute the narcotics designated in his licence.

(4) A licensed dealer may at any time make application to the Minister to amend the licence in order to include narcotics other than those specified in the licence. SOR/85-588, s. 3(F).

10. The Minister may, upon application therefor, issue a permit to any licensed dealer for the importation or exportation of a narcotic.

11. (1) An application for a licence shall be in a form approved by the Minister.

(2) An application for a permit shall be in a form approved by the Minister. SOR/78-154, s. 2; SOR/98-6, s. 2.

12. Every licence or permit issued under these Regulations is subject to the condition that the licensed dealer will comply with the provisions of these Regulations.

13. The Minister may revoke or suspend a licence or permit issued under these Regulations if, in his opinion, the person to whom it was issued has violated or failed to comply with any term or condition thereof or any provision of these Regulations.

14. (1) A licence issued under section 9 expires on December 31st next following the day on which it was issued.

(2) A permit issued under section 10 is valid only for the particular importation or exportation in respect of which it was issued.

15. Every licensed dealer shall keep a record of the following:

- (a) the name and quantity of any narcotic received by him, the name and address of the person who supplied it, and the date it was received;
- (b) the name, quantity and form of narcotic supplied by him, the name and address of the person to whom it was supplied and the date it was supplied;
- (c) the name and quantity of any narcotic used in manufacturing, the name and quantity of any narcotic manufactured and the date any manufactured narcotic was placed in stock; and

(d) the name and quantity of any narcotic in stock at the end of each month.

16. The Minister may, in respect of a licensed dealer, require an inspection of the following to be made at any reasonable time:

- (a) the premises used or intended to be used in manufacturing or storing a narcotic;
- (b) the process and conditions of the manufacturing or storing;
- (c) the qualifications of technical staff concerned with the manufacturing or storing; and
- (d) the records relating to the manufacturing or storing.

17. Every licensed dealer shall

- (a) furnish such information respecting the dealings of such person in any narcotic in such form and at such times as the Minister may require;
- (b) produce to an inspector any books, records or documents required to be kept by these Regulations;
- (c) permit an inspector to make copies of or to take extracts from such books, records and documents; and
- (d) permit an inspector to check all stocks of narcotics located on the premises described in the licence of the licensed dealer.

18. Every licensed dealer shall keep in the premises described in the licence full and complete records respecting any narcotic or transaction therein

- (a) for a period of at least two years; and
- (b) in a manner that will enable an audit to be made at any time of such records.

19. Every licensed dealer shall notify the Minister promptly of changes in the following:

- (a) his technical staff;
- (b) the premises in which a narcotic is manufactured or stored; and
- (c) the process and conditions of the manufacturing or storing.

20. Every licensed dealer shall

- (a) provide such protection against loss or theft of any narcotic in his possession as may be required by the Minister; and
- (b) report to the Minister any loss or theft of a narcotic within 10 days of his discovery thereof.

21. A licensed dealer may only import into or export out of Canada a narcotic at the place specified in his permit.

22. A licensed dealer shall securely pack in a package sealed in such a manner that it cannot be opened without breaking the seal any narcotic intended for export out of Canada.

23. (1) Except as provided in subsection (2), a licensed dealer shall, in taking delivery of a narcotic imported by him or in making delivery of a narcotic,

- (a) take such steps as are necessary to ensure safekeeping of the said narcotic during transit; and

- (b) use such method of transportation as will ensure an accurate record being kept of the narcotic and of the signatures of any persons having charge of the narcotic until it is delivered to the consignee.

(2) A licensed dealer may deliver a verbal prescription narcotic by common carrier. SOR/85-588, s. 4(E).

24. (1) No licensed dealer shall supply a narcotic to any person except in accordance with this section and sections 27 and 28.

(2) Subject to section 25, a licensed dealer may supply any narcotic other than diacetylmorphine (heroin) or methadone to

- (a) another licensed dealer;
- (b) a pharmacist;
- (c) a practitioner;
- (d) a hospital employee or a practitioner in a hospital;
- (e) a person exempted under section 56 of the Act with respect to the possession of that narcotic; or
- (f) a Regional Director of the Health Protection Branch of the Department of National Health and Welfare.

(3) Subject to section 25, a licensed dealer may supply methadone to

- (a) another licensed dealer;
- (b) a pharmacist;
- (c) a hospital employee or a practitioner in a hospital;
- (d) a person exempted under section 56 of the Act with respect to the possession of that narcotic; or
- (e) a Regional Director of the Health Protection Branch of the Department of National Health and Welfare.

(4) Subject to section 25, a licensed dealer may supply diacetylmorphine (heroin) to

- (a) another licensed dealer;
- (b) a hospital employee or a practitioner in a hospital where that hospital provides care or treatment to persons; or
- (c) a person exempted under section 56 of the Act with respect to the possession of that narcotic for a scientific purpose. SOR/78-154, s. 3; SOR/85-588, s. 5; SOR/85-930, s. 3; SOR/86-173, s. 2; SOR/99-124, s. 2.

25. Subject to sections 26 and 36, no licensed dealer shall

- (a) sell or provide a narcotic, other than a verbal prescription narcotic, to a pharmacist named in a notice issued by the Minister under paragraph 48(1)(a);
- (b) sell or provide a verbal prescription narcotic, other than a preparation mentioned in section 36, to a pharmacist named in a notice issued by the Minister under paragraph 48(1)(b);
- (c) sell or provide a preparation mentioned in section 36 to a pharmacist named in a notice issued by the Minister under paragraph 48(1)(c);

- (d) sell or provide a narcotic, other than a verbal prescription narcotic, to a practitioner named in a notice issued by the Minister under subsection 59(1); or
- (e) sell or provide a verbal prescription narcotic to a practitioner named in a notice issued by the Minister under subsection 59(1). SOR/85-588, s. 6(E); SOR/85-930, s. 4; SOR/2003-134, s. 2.

26. Section 25 does not apply to a licensed dealer to whom the Minister has issued a notice of retraction of the notice

- (a) under section 49, in respect of a pharmacist named in a notice issued by the Minister under subsection 48(1); or
- (b) under section 60, in respect of a practitioner named in a notice issued by the Minister under subsection 59(1). SOR/2003-134, s. 2.

27. (1) Subject to this section, a licensed dealer may, in accordance with the terms and conditions of his licence, supply a narcotic other than diacetylmorphine (heroin) or methadone to a person referred to in subsection 24(2), supply methadone to a person referred to in subsection 24(3) and supply diacetylmorphine (heroin) to a person referred to in subsection 24(4) if the licensed dealer has, on the premises described in the licence, received

- (a) a written order,
- (b) an order sent through a computer from a remote input device, or
- (c) a verbal order for verbal prescription narcotics

that specifies the name and quantity of the narcotic to be supplied.

(2) Where a licensed dealer has received an order referred to in paragraph (1)(a), he may supply a narcotic other than diacetylmorphine (heroin) or methadone to a person referred to in subsection 24(2), supply methadone to a person referred to in subsection 24(3) and supply diacetylmorphine (heroin) to a person referred to in subsection 24(4) if

- (a) the order is signed and dated
 - (i) where the narcotic is to be supplied to a person referred to in paragraph 24(2)(a), (b), (c), (e) or (f) or 24(3)(a), (b) or (d), or 24(4)(a) or (c), by that person, or
 - (ii) where the narcotic is to be supplied to a hospital employee or a practitioner in a hospital, by the pharmacist in charge of the dispensary of the hospital or by a practitioner authorized by the person in charge of the hospital to sign the order; and
- (b) the signature of the person referred to in paragraph (a), if unknown to the licensed dealer, has been verified.

(3) Where a licensed dealer has received an order referred to in paragraphs (1)(b) or (c), he may supply a narcotic to a hospital employee or a practitioner in a hospital if the order has been placed by the pharmacist in charge of the dispensary of the hospital or by a practitioner authorized by the person in charge of the hospital to place the order.

(3.1) Where a licensed dealer has received an order sent through a computer from a remote input device referred to in paragraph (1)(b), the dealer may supply methadone to a hospital employee or to a practitioner in a hospital if that order has been placed by a practitioner exempted under section 56 of the Act with respect to methadone.

(4) A licensed dealer may supply a narcotic pursuant to an order received from a remote input device through a computer if the computer program and the remote input device meet the requirements thereof set out in subsections (6) and (7).

(5) Where a licensed dealer has received a verbal order referred to in paragraph (1)(c) and has supplied a verbal prescription narcotic to a person referred to in paragraph 24(2)(b), (c) or (d), he shall forthwith record

- (a) the name of the person to whom the verbal prescription narcotic was supplied;
- (b) where the verbal prescription narcotic was supplied to a hospital employee or a practitioner in a hospital, the name of the person who placed the order; and
- (c) the date the order was received.

(6) For the purposes of this section, a remote input device shall be a device for transmitting electronically orders for drugs, other than by voice communication, that

- (a) contains a unique identifying code that can be related to the device and the pharmacist or practitioner in whose possession and care the remote input device has been placed;
- (b) is in the possession and care of that pharmacist or practitioner; and
- (c) is designed in such a way that the unique identifying code for the remote input device is an integral part of the circuitry and can only be modified by the dismantling of the device.

(7) For the purposes of this section, a computer program shall be able to

- (a) identify the remote input device, the name and address of the pharmacist or practitioner in whose possession and care the remote input device has been placed;
- (b) identify the pharmacist or practitioner placing the order by means of a code unique to that pharmacist or practitioner;
- (c) process separately and identify narcotics by the segregation of orders for those narcotics;
- (d) detect unusual orders and thereby necessitate intervention by the licensed dealer; and
- (e) necessitate manual intervention by the licensed dealer if one or more of the check procedures fails.

(8) Where a licensed dealer has received an order referred to in paragraph (1)(b) from a pharmacist or practitioner, he shall, within five working days after filling the order, obtain and keep a receipt that includes

- (a) the signature of the pharmacist or practitioner who received the narcotic;
- (b) the date the pharmacist or practitioner received the narcotic; and
- (c) the name and quantity of the narcotic.

(9) Where a licensed dealer does not receive, within the time referred to in subsection (8), a receipt as required by that subsection from the pharmacist or practitioner who received the narcotic, he shall not, until such time as he receives the receipt, supply any narcotic pursuant to any further

- (a) order sent through a computer from a remote input device referred to in paragraph (1)(b), or
- (b) verbal order referred to in paragraph (1)(c) from that pharmacist or practitioner who placed the order for which no receipt has been received. SOR/78-154, s. 4; SOR/85-588, s. 7; SOR/85-930, s. 5; SOR/99-124, s. 3.

28. (1) No licensed dealer shall supply a narcotic unless it is labelled in accordance with the *Food and Drug Regulations*.

(2) No licensed dealer shall supply a narcotic, other than a preparation described in section 36, unless it is securely packed in its immediate container and sealed in such a manner that it cannot be opened without breaking the seal. SOR/80-547, s. 1.

29. Section 28 does not apply to a test kit that contains a narcotic where a registration number has been issued for the test kit pursuant to section 6 and has not been cancelled pursuant to section 7.

PHARMACISTS

30. A pharmacist, upon receipt of a narcotic from a licensed dealer, shall forthwith enter in a book, register or other record maintained for such purposes, the following:

- (a) the name and quantity of the narcotic received;
- (b) the date the narcotic was received; and
- (c) the name and address of the person from whom the narcotic was received. SOR/85-588, s. 8.

31. (1) No pharmacist shall supply narcotics except in accordance with subsections (2) and (3) and sections 34 to 36.

- (2) A pharmacist may supply a narcotic other than methadone to a person
 - (a) if the person is exempted under section 56 of the Act with respect to the possession of that narcotic; or
 - (b) if the pharmacist has first received a written order or prescription therefor signed and dated by a practitioner and the signature of the practitioner, where not known to the pharmacist, has been verified by him.

- (3) A pharmacist may supply methadone to
 - (a) a licensed dealer;
 - (b) another pharmacist;
 - (c) a hospital employee or a practitioner in a hospital;
 - (d) a person exempted under section 56 of the Act with respect to methadone; or
 - (e) a person from whom the pharmacist has received a written order or prescription therefor signed and dated by a practitioner of medicine who is exempted under section 56 of the Act with respect to methadone. SOR/81-361, s. 2; SOR/85-588, s. 9; SOR/99-124, s. 4.

32. Subject to section 33 and despite subsections 31(2) and (3) and sections 34 to 36, no pharmacist shall

- (a) sell or provide a narcotic, other than a verbal prescription narcotic, to a pharmacist named in a notice issued by the Minister under paragraph 48(1)(a);

- (b) sell or provide a verbal prescription narcotic, other than a preparation mentioned in section 36, to a pharmacist named in a notice issued by the Minister under paragraph 48(1)(b);
- (c) sell or provide a preparation mentioned in section 36 to a pharmacist named in a notice issued by the Minister under paragraph 48(1)(c);
- (d) dispense, sell or provide a narcotic, other than a verbal prescription narcotic, to a practitioner or fill a prescription or order for a narcotic, other than a verbal prescription narcotic, from a practitioner, named in a notice issued by the Minister under subsection 59(1); or
- (e) dispense, sell or provide a verbal prescription narcotic to a practitioner or fill a prescription or order for a verbal prescription narcotic from a practitioner, named in a notice issued by the Minister under subsection 59(1). SOR/85-588, s. 10(E); SOR/2003-134, s. 3.

33. Section 32 does not apply to a pharmacist to whom the Minister has issued a notice of retraction of the notice

- (a) under section 49, in respect of a pharmacist named in a notice issued by the Minister under subsection 48(1); or
- (b) under section 60, in respect of a practitioner named in a notice issued by the Minister to under subsection 59(1). SOR/2003-134, s. 3.

34. Subject to section 39, a pharmacist may dispense a verbal prescription narcotic on receipt of a prescription or verbal order given by a person whom the pharmacist has taken reasonable precautions to determine is a practitioner. SOR/85-588, s. 11; SOR/85-930, s. 6.

35. A pharmacist may supply a narcotic to a hospital employee or a practitioner in a hospital on receipt of a written order signed and dated by

- (a) the pharmacist in charge of the dispensary of the hospital, or
- (b) a practitioner authorized by the person in charge of the hospital to sign the order and, in the case of methadone, exempted under section 56 of the Act with respect to methadone,

where the signature of that pharmacist or practitioner is known to the pharmacist or if unknown, has been verified. SOR/85-588, s. 12; SOR/99-124, s. 5.

36. (1) Subject to subsection (2), a pharmacist may, without a prescription, supply a preparation containing not more than eight milligrams or its equivalent of codeine phosphate per tablet or per unit in other solid form or not more than 20 milligrams or its equivalent of codeine phosphate per 30 millilitres in a liquid preparation, if

- (a) the preparation contains
 - (i) two additional medicinal ingredients other than a narcotic in a quantity of not less than the regular minimum single dose for one such ingredient or one-half the regular minimum single dose for each such ingredient, or
 - (ii) three additional medicinal ingredients other than a narcotic in a quantity of not less than the regular minimum single dose for one such ingredient or one-third the regular minimum single dose for each such ingredient; and

- (b) there is legibly and conspicuously printed on the main panel of the label and on any outer container the full formula or true list of all active ingredients and a caution to the following effect:

"This preparation contains codeine and should not be administered to children except on the advice of a physician or dentist."

(2) No pharmacist shall supply a preparation referred to in subsection (1) where there are reasonable grounds for believing that the preparation will be used by a person for other than recognized medical or dental purposes. SOR/78-154, s. 5; SOR/85-588, s. 13.

37. A pharmacist shall not use an order or prescription, written or verbal, to dispense a narcotic after the quantity of the narcotic specified in the order or prescription has been dispensed. SOR/81-361, s. 3.

38. Where, pursuant to a written order or prescription, a pharmacist dispenses a narcotic, other than dextropropoxyphene or a verbal prescription narcotic, the pharmacist shall forthwith enter in a book, register or other record maintained for such purposes

- (a) the name and address of the person named in the order or prescription;
- (b) the name, quantity and form of the narcotic;
- (c) the name, initials and address of the practitioner who issued the order or prescription;
- (d) the name or initials of the pharmacist who supplied the narcotic;
- (e) the date the narcotic was supplied; and
- (f) the number assigned to the order or prescription. SOR/82-1073, s. 1; SOR/85-588, s. 14(E).

39. A pharmacist shall, before dispensing a verbal prescription narcotic pursuant to a verbal order or prescription, make a written record thereof, setting forth

- (a) the name and address of the person named therein;
- (b) in accordance with the manner in which it is specified in the prescription, the name and quantity of such oral prescription narcotic or the narcotic and the other medicinal ingredients therein;
- (c) the directions for use given therewith;
- (d) the name, initials and address of the practitioner who issued the order or prescription;
- (e) the name or initials of the pharmacist who dispensed such oral prescription narcotic;
- (f) the date such oral prescription narcotic was supplied; and
- (g) the number assigned to the order or prescription. SOR/85-588, s. 15.

40. (1) A pharmacist shall maintain a special narcotic prescription file in which shall be filed in sequence as to date and number all written orders or prescriptions for narcotics dispensed and the written record of all verbal prescription narcotics dispensed pursuant to a verbal order or prescription as provided in section 39.

(2) A pharmacist shall retain in his possession for a period of at least two years any records which he is required to keep by these Regulations. SOR/85-588, s. 16.

41. A pharmacist shall

- (a) furnish such information respecting the dealings of the pharmacist in any narcotic in such form and at such times as the Minister may require;
- (b) make available and produce to an inspector upon request his special narcotic prescription file together with any books, records or documents which he is required to keep;
- (c) permit an inspector to make copies of or to take extracts from such files, books, records or documents; and
- (d) permit an inspector to check all stocks of narcotics on his premises.

42. A pharmacist shall report to the Minister any loss or theft of a narcotic within 10 days of his discovery thereof.

43. A pharmacist shall take all reasonable steps that are necessary to protect narcotics on his premises or under his control against loss or theft. SOR/81-361, s. 4; SOR/85-588, s. 17.

44. (1) No pharmacist shall prepare a narcotic unless the Minister has approved the formula thereof, and if such narcotic is a preparation described in section 36, has approved the label and the size of the container in which it will be sold.

(2) A pharmacist who prepares a narcotic shall, in addition to all other records required to be kept, keep a record of the following:

- (a) the kind and quantity of any narcotic used in the preparation;
- (b) the name and quantity of the narcotic prepared; and
- (c) the date that the prepared narcotic was placed in stock.

(3) For the purposes of this section, "prepare" does not include the compounding of a narcotic pursuant to a prescription of a practitioner.

45. (1) A pharmacist may, upon receiving a written order for a narcotic signed and dated by

- (a) the licensed dealer who supplied that narcotic to him, return that narcotic to that dealer; or
- (b) another pharmacist, supply such quantity of that narcotic to that other pharmacist as is specified in the order as being required for emergency purposes.

(2) A pharmacist shall forthwith after returning or supplying a narcotic pursuant to subsection (1) or receiving a narcotic pursuant to paragraph (1)(b) or subsection 65(4) enter the details of the transaction in a book, register or other record maintained for the purpose of recording such transactions.

(3) A pharmacist shall forthwith after removing, transporting or transferring a narcotic from his place of business to any other place of business operated by him notify the Minister setting out the details thereof. SOR/81-361, s. 5; SOR/85-588, s. 18.

46. The Minister shall provide in writing any factual information about a pharmacist that has been obtained under the Act or these Regulations to the licensing authority responsible for the registration or authorization of the person to practise their profession

- (a) in the province in which the pharmacist is registered or entitled to practise if

- (i) the authority submits a written request that states the name and address of the pharmacist, a description of the information being sought and a statement that the information is required for the purpose of assisting a lawful investigation by the authority, or
- (ii) the Minister has reasonable grounds to believe that the pharmacist has
 - (A) contravened a rule of conduct established by the authority,
 - (B) been found guilty in a court of law of a designated drug offence or of a contravention of these Regulations, or
 - (C) contravened a provision of these Regulations; or
- (b) in a province in which the pharmacist is not registered or entitled to practise, if the authority submits to the Minister
 - (i) a written request for information that states
 - (A) the name and address of the pharmacist, and
 - (B) a description of the information being sought, and
 - (ii) documentation that shows that the pharmacist has applied to that authority to practise in that province. SOR/86-882, s. 1; SOR/2003-134, s. 4.

47. A pharmacist may make a written request to the Minister to send to the persons and authorities specified in subsection 48(3) a notice, issued under section 48, advising them of one or more of the following requirements:

- (a) recipients of the notice must not sell or provide a narcotic, other than a verbal prescription narcotic, to that pharmacist;
- (b) recipients of the notice must not sell or provide a verbal prescription narcotic, other than a preparation mentioned in section 36, to that pharmacist; and
- (c) the recipients of the notice must not sell or provide a preparation mentioned in section 36 to that pharmacist. SOR/2003-134, s. 4.

48. (1) In the circumstances described in subsection (2), the Minister must issue a notice to the persons and authorities specified in subsection (3) advising them that licensed dealers and pharmacists practising in the notified pharmacies must not sell or provide to the pharmacist named in the notice one or more of the following:

- (a) a narcotic, other than a verbal prescription narcotic;
 - (b) a verbal prescription narcotic, other than a preparation mentioned in section 36; or
 - (c) a preparation mentioned in section 36.
- (2) The notice must be issued if the pharmacist named in the notice has
- (a) made a request to the Minister in accordance with section 47 to issue the notice;
 - (b) contravened a rule of conduct established by the licensing authority of the province in which the pharmacist is practising and that licensing authority has requested the Minister in writing to issue the notice; or

- (c) been found guilty in a court of law of a designated drug offence or of an offence under these Regulations.
- (3) The notice must be issued to
- (a) all licensed dealers;
 - (b) all pharmacies within the province in which the pharmacist named in the notice is registered and practising;
 - (c) the licensing authority of the province in which the pharmacist named in the notice is registered or entitled to practise; and
 - (d) any interested licensing authority in another province that has made a request to the Minister to issue the notice.
- (4) Subject to subsection (5), the Minister may issue the notice described in subsection (1) to the persons and authorities specified in subsection (3), if the Minister, on reasonable grounds, believes that the pharmacist named in the notice
- (a) has contravened any of the provisions of sections 30 to 45 or section 70;
 - (b) has, on more than one occasion, self-administered a narcotic, other than a verbal prescription narcotic, contrary to accepted pharmaceutical practice;
 - (c) has, on more than one occasion, self-administered a verbal prescription narcotic, other than a preparation mentioned in section 36, contrary to accepted pharmaceutical practice;
 - (d) has, on more than one occasion, provided or administered a narcotic, other than a verbal prescription narcotic, to a person who is a spouse, common-law partner, parent or child of the pharmacist, including a child adopted in fact, contrary to accepted pharmaceutical practice;
 - (e) has, on more than one occasion, provided or administered a verbal prescription narcotic, other than a preparation mentioned in section 36, to a person who is a spouse, common-law partner, parent or child of the pharmacist, including a child adopted in fact, contrary to accepted pharmaceutical practice; or
 - (f) is unable to account for the quantity of narcotic for which the pharmacist was responsible under these Regulations.
- (5) In the circumstances described in subsection (4), the Minister must not issue the notice referred to in subsection (1) until the Minister has
- (a) consulted with the licensing authority of the province in which the pharmacist to whom the notice relates is registered or entitled to practise;
 - (b) given that pharmacist an opportunity to present reasons why the notice should not be issued and considered those reasons; and
 - (c) considered
 - (i) the compliance history of the pharmacist in respect of the Act and the regulations made or continued under it, and
 - (ii) whether the actions of the pharmacist pose a significant security, public health or safety hazard, including the risk of the narcotic being diverted to an illicit market or use. SOR/2003-134, s. 4.

49. The Minister must provide the licensed dealers, pharmacies and licensing authorities who were issued a notice under subsection 48(1) with a notice of retraction of that notice if

- (a) in the circumstance described in paragraph 48(2)(a), the requirements set out in subparagraphs (b)(i) and (ii) have been met and one year has elapsed since the notice was issued by the Minister; or
- (b) in a circumstance described in any of paragraphs 48(2)(b) and (c) and (4)(a) to (f), the pharmacist named in the notice has
 - (i) requested in writing that a retraction of the notice be issued, and
 - (ii) provided a letter from the licensing authority of the province, in which the pharmacist is registered or entitled to practise, in which the authority consents to the retraction of the notice. SOR/2003-134, s. 4.

50. to 52. [Repealed, SOR/2003-134, s. 4]

PRACTITIONERS

53. (1) No practitioner shall administer, prescribe, give, sell or furnish a narcotic to any person or animal except as authorized under this section or the *Marihuana Medical Access Regulations*.

(2) Subject to subsections (3) and (4), a practitioner may administer, prescribe, give, sell or furnish a narcotic to a person or animal if

- (a) the person or animal is a patient under his professional treatment; and
- (b) the narcotic is required for the condition for which the person or animal is receiving treatment.

(3) No practitioner shall administer, prescribe, give, sell or furnish methadone to any person or animal unless the practitioner has been exempted under section 56 of the Act with respect to methadone.

(4) No practitioner shall administer, prescribe, give, sell or furnish diacetylmorphine (heroin) to

- (a) any animal; or
- (b) any person unless that person is an in-patient or out-patient of a hospital providing care or treatment to persons. SOR/85-930, s. 7; SOR/99-124, s. 6; SOR/2001-227, s. 71.

54. (1) A practitioner who furnishes a narcotic to a person for self-administration or for administration to an animal shall, whether or not he makes a charge therefor, if he furnishes the narcotic in an amount

- (a) that exceeds three times the maximum daily dosage recommended by the manufacturer of that narcotic for that narcotic, or
- (b) if the manufacturer has not recommended a maximum daily dosage, that exceeds three times the generally recognized maximum daily therapeutic dosage for that narcotic

keep a record showing

- (c) the name and quantity of the narcotic furnished,
- (d) the name and address of the person to whom it was furnished, and

(e) the date on which it was furnished.

(2) A practitioner who is required by this section to keep a record shall keep the record in a place, form and manner that will permit an inspector readily to examine and obtain information from it.

55. A practitioner shall

- (a) furnish to the Minister on request such information respecting
 - (i) the receipt and use by the practitioner of narcotics (including the administering and furnishing thereof to a person), and
 - (ii) the prescriptions for narcotics issued by the practitioner, as the Minister may require;
- (b) produce to an inspector on request any records that these Regulations require the practitioner to keep;
- (c) permit an inspector to make copies of such records or to take extracts therefrom;
- (d) permit an inspector to check all stocks of narcotics on the practitioner's premises;
- (e) retain in his possession for at least two years any record that these Regulations require him to keep;
- (f) take adequate steps to protect narcotics in his possession from loss or theft; and
- (g) report to the Minister any loss or theft of a narcotic within 10 days of the practitioner's discovery of the loss or theft.

56. Where a practitioner alleges or, in any prosecution for an offence under the Act or these Regulations, pleads that his possession of a narcotic was for use in his practice or that he prescribed, administered, gave, sold or furnished a narcotic to any person or animal as a patient under his professional treatment and that such narcotic was required for the condition for which the patient received treatment, the burden of proof thereof shall be on such practitioner.

57. The Minister shall provide in writing any factual information about a practitioner that has been obtained under the Act or these Regulations to the licensing authority responsible for the registration or authorization of the person to practise their profession

- (a) in the province in which the practitioner is registered or entitled to practise if
 - (i) the authority submits a written request that states the name and address of the practitioner, a description of the information being sought and a statement that the information is required for the purpose of assisting a lawful investigation by the authority, or
 - (ii) the Minister has reasonable grounds to believe that the practitioner has
 - (A) contravened a rule of conduct established by the authority,
 - (B) been found guilty in a court of law of a designated drug offence or of a contravention of these Regulations, or
 - (C) contravened a provision of these Regulations; or
- (b) in a province in which the practitioner is not registered or entitled to practise, if the authority submits to the Minister

- (i) a written request for information that states
 - (A) the name and address of the practitioner, and
 - (B) a description of the information being sought, and
- (ii) documentation that shows that the practitioner has applied to that authority to practise in that province. SOR/86-882, s. 2; SOR/2003-134, s. 5.

58. A practitioner may make a written request to the Minister to send to licensed dealers and pharmacies a notice, issued under section 59, advising them of one or more of the following requirements:

- (a) recipients of the notice must not sell or provide a narcotic, other than a verbal prescription narcotic, to that practitioner;
- (b) recipients of the notice must not sell or provide a verbal prescription narcotic to the practitioner;
- (c) pharmacists practising in the notified pharmacies must not fill a prescription or order for a narcotic, other than a verbal prescription narcotic, written by that practitioner; or
- (d) pharmacists practising in the notified pharmacies must not fill a prescription or order for a verbal prescription narcotic from that practitioner. SOR/2003-134, s. 5.

59. (1) In the circumstances described in subsection (2), the Minister must issue a notice to the persons and authorities specified in subsection (3) advising them that

- (a) licensed dealers and pharmacists practising in the notified pharmacies must not sell or provide to the practitioner named in the notice a narcotic other than a verbal prescription narcotic, a verbal prescription narcotic, or both; or
- (b) pharmacists practising in the notified pharmacies must not fill a prescription or order from the practitioner named in the notice for a narcotic other than a verbal prescription narcotic, a verbal prescription narcotic, or both.

(2) The notice must be issued if the practitioner named in the notice has

- (a) made a request to the Minister in accordance with section 58 to issue the notice;
- (b) contravened a rule of conduct established by the licensing authority of the province in which the practitioner is practising and that licensing authority has requested the Minister in writing to issue the notice; or
- (c) been found guilty in a court of law of a designated drug offence or of an offence under these Regulations.

(3) The notice must be issued to

- (a) all licensed dealers;
- (b) all pharmacies within the province in which the practitioner named in the notice is registered and practising;
- (c) the licensing authority of the province in which the practitioner named in the notice is registered or entitled to practise;

- (d) any interested licensing authority in another province that has made a request to the Minister for the notice; and
- (e) all pharmacies in an adjacent province in which a prescription or order from the practitioner named in the notice may be filled.

(4) Subject to subsection (5), the Minister may issue the notice described in subsection (1) to the persons and authorities specified in subsection (3), if the Minister, on reasonable grounds, believes that the practitioner named in the notice

- (a) has contravened any of the provisions of section 53, 54 or 55 or paragraphs 70(a) and (b);
- (b) has, on more than one occasion, self-administered a narcotic, other than a verbal prescription narcotic, under a self-directed prescription or order or, in the absence of a prescription or order, contrary to accepted medical, dental or veterinary practice;
- (c) has, on more than one occasion, self-administered a verbal prescription narcotic under a self-directed prescription or order or, in the absence of a prescription or order, contrary to accepted medical, dental or veterinary practice;
- (d) has, on more than one occasion, prescribed, provided or administered a narcotic, other than a verbal prescription narcotic, to a person who is a spouse, common-law partner, parent or child of the practitioner, including a child adopted in fact, contrary to accepted medical, dental or veterinary practice;
- (e) has, on more than one occasion, prescribed, provided or administered a verbal prescription narcotic to a person who is a spouse, common-law partner, parent or child of the practitioner, including a child adopted in fact, contrary to accepted medical, dental or veterinary practice; or
- (f) is unable to account for the quantity of narcotic for which the practitioner was responsible under these Regulations.

(5) In the circumstances described in subsection (4), the Minister must not issue the notice referred to in subsection (1) until the Minister has

- (a) consulted with the licensing authority of the province in which the practitioner to whom the notice relates is registered or entitled to practise;
- (b) given that practitioner an opportunity to present reasons why the notice should not be issued and considered those reasons; and
- (c) considered
 - (i) the compliance history of the practitioner in respect of the Act and the regulations made or continued under it, and
 - (ii) whether the actions of the practitioner pose a significant security, public health or safety hazard, including the risk of the narcotic being diverted to an illicit market or use. SOR/2003-134, s. 5.

60. The Minister must provide the licensed dealers, pharmacies and licensing authorities who were issued a notice under subsection 59(1) with a notice of retraction of that notice if

- (a) in the circumstance described in paragraph 59(2)(a), the requirements set out in subparagraphs (b)(i) and (ii) have been met and one year has elapsed since the notice was issued by the Minister; or

- (b) in a circumstance described in any of paragraphs 59(2)(b) and (c) and (4)(a) to (f), the practitioner named in the notice has
 - (i) requested in writing that a retraction of the notice be issued, and
 - (ii) provided a letter from the licensing authority of the province, in which the practitioner is registered or entitled to practise, in which the authority consents to the retraction of the notice. SOR/85-588, s. 20(E); SOR/2003-134, s. 5.

61. and 62. [Repealed, SOR/2003-134, s. 5]

HOSPITALS

63. A person who is in charge of a hospital shall

- (a) keep or cause to be kept in a book, register or other record maintained for such purposes,
 - (i) the name and quantity of any narcotic received,
 - (ii) the name and address of the person from whom any narcotic was received and the date received,
 - (iii) the name and quantity of any narcotic used in manufacturing,
 - (iv) the name and quantity of any narcotic manufactured and the date of manufacture,
 - (v) the name of the patient for whom a narcotic, other than dextropropoxyphene or a verbal prescription narcotic, was dispensed;
 - (vi) the name of the practitioner ordering or prescribing a narcotic, other than dextropropoxyphene or a verbal prescription narcotic; and
 - (vii) the date a narcotic, other than dextropropoxyphene or a verbal prescription narcotic was ordered or prescribed and the form and quantity thereof;
- (b) maintain the recorded information in such form as to enable an audit to be made from time to time for a period of not less than two years from the making thereof;
- (c) take all necessary steps to protect narcotics in the hospital against loss or theft, and report to the Minister any loss or theft of narcotics within 10 days of his discovery thereof. SOR/82-1073, s. 2; SOR/85-588, s. 21(E).

64. A person who is in charge of a hospital shall

- (a) furnish such information respecting the use of narcotics therein, in such form and at such times as the Minister may require;
- (b) produce to an inspector any books, records or documents required by these Regulations to be kept;
- (c) permit an inspector to make copies thereof or take extracts from such books, records and documents; and
- (d) permit an inspector to check all stocks of narcotics in the hospital.

65. (1) No person in charge of a hospital shall permit a narcotic to be supplied or administered except as provided in this section.

(2) Subject to subsection (5), a person in charge of a hospital may permit a narcotic other than diacetylmorphine (heroin) to be supplied or administered to a person or an animal under treatment as an in-patient or out-patient of the hospital on receipt of a prescription or a written order signed and dated by a practitioner.

(3) Subject to subsection (5), a person in charge of a hospital may permit a narcotic to be supplied to a hospital employee or a practitioner in another hospital for emergency purposes on receipt of a written order signed and dated by

- (a) a pharmacist in the other hospital, or
- (b) a practitioner authorized by the person in charge of the other hospital to sign such an order,

where the signature of that pharmacist or practitioner is known to the person who supplies the narcotic or, if unknown, has been verified.

(4) A person in charge of a hospital may permit a narcotic other than diacetylmorphine (heroin) to be supplied to a pharmacist for emergency purposes on receipt of a written order signed and dated by the pharmacist where the signature of that pharmacist is known to the person who supplies the narcotic or, if unknown, has been verified.

(5) No person in charge of a hospital shall permit methadone to be supplied or administered pursuant to subsection (2) or (3) unless the practitioner referred to in that subsection is exempted under section 56 of the Act with respect to methadone.

(6) A person in charge of a hospital may permit a narcotic to be supplied to a person who is exempted under section 56 of the Act with respect to that narcotic and who is employed in a research laboratory in that hospital for the purpose of research.

(7) A person in charge of a hospital providing care or treatment to persons may permit diacetylmorphine (heroin) to be supplied or administered to a person under treatment as an in-patient or out-patient of that hospital on receipt of a prescription or a written order signed and dated by a practitioner. SOR/85-588, s. 22; SOR/85-930, s. 8; SOR/88-279, s. 2(F); SOR/99-124, s. 7.

GENERAL

66. [Repealed, SOR/97-227, s. 3]

67. The Minister may, upon application therefor, issue a licence to any person who, in the opinion of the Minister, is qualified therefor, to cultivate, gather or produce opium poppy or marihuana for scientific purposes on such terms and conditions as the Minister deems necessary.

68. (1) and (2) [Repealed, SOR/99-124, s. 8]

(3) Notwithstanding anything in these Regulations, a person may, for the purpose of identification or analysis thereof, give or deliver a narcotic that he has in his possession to

- (a) a practitioner of medicine, or
- (b) an agent of that practitioner where the agent is exempted under section 56 of the Act with respect to possession of that narcotic.

(4) A practitioner of medicine who has received a narcotic pursuant to subsection (3) shall forthwith

- (a) for the purpose of identification or analysis thereof, give or deliver that narcotic to a person exempted under section 56 of the Act with respect to the possession of that narcotic for that purpose; or

(b) deliver that narcotic to the Minister or his agent.

(5) An agent of a practitioner of medicine who has received a narcotic pursuant to subsection (3) shall forthwith give or deliver that narcotic

(a) to the practitioner of whom he is the agent, or

(b) to the Minister or his agent.

(6) A practitioner of medicine who has received, pursuant to subsection (5), a narcotic from his authorized agent shall forthwith

(a) for the purpose of identification or analysis thereof, give or deliver that narcotic to a person exempted under section 56 of the Act with respect to the possession of that narcotic for that purpose; or

(b) deliver that narcotic to the Minister or his agent. SOR/85-930, s. 9; SOR/99-124, s. 8.

69. Every person who is exempted under section 56 of the Act with respect to possession of a narcotic, other than a person to whom a narcotic has been administered, given, furnished, distributed or delivered by a practitioner of medicine exempted under section 56 of the Act from the application of any subsection of section 53 with respect to that narcotic, every practitioner of medicine who has received a narcotic pursuant to subsection 68(3) or (5) and every agent of a practitioner of medicine who has received a narcotic pursuant to subsection 68(3) shall

(a) keep and retain for a period of two years from the date of the making of the record, a record of

(i) the kind, date and quantity of any narcotic purchased or received by him,

(ii) the name and address of the person from whom the narcotic was received, and

(iii) particulars of the use to which the narcotic was put; and

(b) furnish such information respecting such narcotics as the Minister may require, and shall permit access to the records required to be kept by these Regulations. SOR/85-588, s. 23; SOR/99-124, s. 9.

70. No person shall

(a) publish or cause to be published or furnish any advertisement respecting a narcotic unless the symbol "N" is clearly and conspicuously displayed in the upper left-hand quarter thereof or, if the advertisement consists of more than one page, on the first page thereof;

(b) publish or cause to be published or furnish any advertisement to the general public respecting a narcotic; or

(c) advertise in a pharmacy a preparation referred to in section 36.

71. Any person who violates any provision of these Regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding six months, or to both.

72. (1) For the purposes of subsection 24(1) of the Act, notification shall be given in writing to the Attorney General by registered mail.

(2) The notice referred to in subsection (1) shall be mailed at least 15 clear days prior to the date the application will be made to the magistrate and shall specify

- (a) the magistrate to whom the application will be made;
- (b) the time and place where the application will be heard;
- (c) the narcotic or other thing in respect of which the application is being made; and
- (d) the evidence upon which the applicant intends to rely to establish that he is entitled to possession of the narcotic or other thing referred to in paragraph (c).
SOR/97-227, s. 4.

73. (1) In this section,

"member" means any person who is registered, certified or otherwise licensed by a nursing statutory body for the practice of nursing; (*membre*)

"nursing statutory body" means any provincial professional licensing authority that, pursuant to the laws of that province, registers, certifies or otherwise licenses a person for the practice of nursing. (*organisme de nursing*)

(2) The Minister may communicate to a nursing statutory body any information obtained under the Act or these Regulations that involves any member of that body. SOR/82-121, s. 1.

74. Where, pursuant to the *Controlled Drugs and Substances Act (Police Enforcement) Regulations*,³ a member of a police force or a person acting under the direction and control of the member is, in respect of the conduct of the member or person, exempt from the application of subsection 4(2) or section 5, 6 or 7 of the Act, the member or person is, in respect of that conduct, exempt from the application of these Regulations. SOR/97-227, s. 5.

SCHEDULE (Section 2)

1. Opium Poppy (*Papaver somniferum*), its preparations, derivatives, alkaloids and salts, including:
 - (1) Opium
 - (2) Codeine (methyldmorphine)
 - (3) Morphine (7,8-didehydro-4,5-epoxy-17-methylmorphinan-3,6-diol)
 - (4) Thebaine (paramorphine)and the salts, derivatives and salts of derivatives of the substances set out in subitems (1) to (4), including:
 - (5) Acetorphine (acetyletorphine)
 - (6) Acetyldihydrocodeine (4,5-epoxy-3-methoxy-17-methylmorphinan-6-ol acetate)
 - (7) Benzylmorphine (7,8-didehydro-4,5-epoxy-17-methyl-3-(phenylmethoxy) morphinan-6-ol)
 - (8) Codoxime (dihydrocodeinone O-(carboxymethyl)oxime)
 - (9) Desomorphine (dihydrodeoxymorphine)
 - (10) Diacetylmorphine (heroin)
 - (11) Dihydrocodeine (4,5-epoxy-3-methoxy-17-methylmorphinan-6-ol)

³ Note by the Secretariat: E/NL.2004/23

- (12)Dihydromorphine (4,5-epoxy-17-methylmorphinan-3,6-diol)
- (13)Ethylmorphine (7,8-didehydro-4,5-epoxy-3-ethoxy-17-methylmorphinan-6-ol)
- (14)Etorphine (tetrahydro-7?-(1-hydroxy-1-methylbutyl)-6,14-endo-ethenooripavine)
- (15)Hydrocodone (dihydrocodeinone)
- (16)Hydromorphinol (dihydro-14-hydroxymorphine)
- (17)Hydromorphone (dihydromorphinone)
- (18)Methyldesorphine (?6-deoxy-6-methylmorphine)
- (19)Methyldihydromorphine (dihydro-6-methylmorphine)
- (20)Metopon (dihydromethylmorphinone)
- (21)Morphine-N-oxide (morphine oxide)
- (22)Myrophine (benzylmorphine myristate)
- (23)Nalorphine (N-allylnormorphine)
- (24)Nicocodine (6-nicotinylcodeine)
- (25)Nicomorphine (dinicotinylmorphine)
- (26)Norcodeine (N-desmethylcodeine)
- (27)Normorphine (N-desmethylmorphine)
- (28)Oxycodone (dihydrohydroxycodeinone)
- (29)Oxymorphone (dihydrohydroxymorphinone)
- (30)Pholcodine (3-[2-(4-morpholinyl)ethyl]morphine)
- (31)Thebacon (acetyldihydrocodeinone)

but not including

- (32)Apomorphine (5,6,6a,7-tetrahydro-6-methyl-4H-dibenzo[de,g]-quinoline-10,11-diol)
 - (33)Cyprenorphine (N-(cyclopropylmethyl)-6,7,8,14-tetrahydro-7?-(1-hydroxy-1-methylethyl)-6,14-endo-ethenonoripavine)
 - (34)Nalmefene (17-(cyclopropylmethyl)-4,5?-epoxy-6-methylenemorphinan-3,14-diol)
 - (34.1)Naloxone (4,5?-epoxy-3,14-dihydroxy-17-(2-propenyl)morphinan-6-one)
 - (34.2)Naltrexone (17-(cyclopropylmethyl)-4,5?-epoxy-3,14-dihydroxymorphinan-6-one)
 - (35)Narcotine (6,7-dimethoxy-3-(5,6,7,8-tetrahydro-4-methoxy-6-methyl-1,3-dioxolos[4,5-g]isoquinolin-5-yl)-1(3H)-isobenzofuranone)
 - (36)Papaverine (1-[(3,4-dimethoxyphenyl)methyl]-6,7- dimethoxyisoquinoline)
 - (37)Poppy seed
2. Coca (Erythroxyton), its preparations, derivatives, alkaloids and salts, including:
- (1)Coca leaves
 - (2)Cocaine (benzoylemethylecgonine)
 - (3)Ecgonine (3-hydroxy-2-tropane carboxylic acid)
3. Phenylpiperidines, their intermediates, salts, derivatives and analogues and salts of intermediates, derivatives and analogues, including:
- (1)Allylprodine (3-allyl-1-methyl-4-phenyl-4-piperidinol propionate)

- (2) Alphameprodine (?-3-ethyl-1-methyl-4-phenyl-4-piperidinol propionate)
- (3) Alphaprodine (?-1,3-dimethyl-4-phenyl-4-piperidinol propionate)
- (4) Anileridine (ethyl 1-[2-(p-aminophenyl) ethyl]-4-phenylpiperidine-4-carboxylate)
- (5) Betameprodine (β -3-ethyl-1-methyl-4-phenyl-4-piperidinol propionate)
- (6) Betaprodine (β -1,3-dimethyl-4-phenyl-4-piperidinol propionate)
- (7) Benzethidine (ethyl 1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylate)
- (8) Diphenoxylate (ethyl 1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylate)
- (9) Difenoxyin (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylate)
- (10) Etoxeridine (ethyl 1-[2-(2-hydroxyethoxy) ethyl]- 4-phenylpiperidine-4-carboxylate)
- (11) Furethidine (ethyl 1-(2-tetrahydrofurfuryloxyethyl)- 4-phenylpiperidine-4-carboxylate)
- (12) Hydroxypethidine (ethyl 4-(m-hydroxyphenyl)-1-methylpiperidine-4-carboxylate)
- (13) Ketobemidone (1-[4-(m-hydroxyphenyl)-1-methyl-4-piperidyl]-1-propanone)
- (14) Methylphenylisonipeconitrile (4-cyano-1-methyl-4-phenylpiperidine)
- (15) Morpheridine (ethyl 1-(2-morpholinoethyl)-4- phenylpiperidine-4-carboxylate)
- (16) Norpethidine (ethyl 4-phenylpiperidine-4-carboxylate)
- (17) Pethidine (ethyl 1-methyl-4-phenylpiperidine-4-carboxylate)
- (18) Phenoperidine (ethyl 1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylate)
- (19) Piminodine (ethyl 1-[3-(phenylamino)propyl]-4-phenylpiperidine-4-carboxylate)
- (20) Properidine (isopropyl 1-methyl-4-phenylpiperidine-4- carboxylate)
- (21) Trimeperidine (1,2,5-trimethyl-4-phenyl-4-piperidinol propionate)
- (22) Pethidine Intermediate C (1-methyl-4-phenylpiperidine-4-carboxylate)

but not including

- (23) Carbamethidine (ethyl 1-(2-carbamylethyl)-4-phenylpiperidine-4-carboxylate)
- (24) Oxpheneridine (ethyl 1-(2-hydroxy-2-phenylethyl)-4-phenylpiperidine-4-carboxylate)

4. Phenazepines, their salts, derivatives and salts of derivatives including:

- (1) Proheptazine (hexahydro-1,3-dimethyl-4-phenyl-1Hazepin-4-ol propionate)

but not including

- (2) Ethoheptazine (ethyl hexahydro-1-methyl-4-phenylazepine-4-carboxylate)
- (3) Metethoheptazine (ethyl hexahydro-1,3-dimethyl-4-phenylazepine-4-carboxylate)
- (4) Metheptazine (ethyl hexahydro-1,2-dimethyl-4-phenylazepine-4-carboxylate)

5. Amidones, their intermediates, salts, derivatives and salts of intermediates and derivatives, including:

- (1) Dimethylaminodiphenylbutanonitrile (4-cyano-2-dimethylamino-4,4-diphenylbutane)
- (2) Dipipanone (4,4-diphenyl-6-piperidino-3-heptanone)
- (3) Isomethadone (6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone)
- (4) Methadone (6-dimethylamino-4,4-diphenyl-3-heptanone)
- (5) Normethadone (6-dimethylamino-4,4-diphenyl-3-hexanone)

- (6) Norpipanone (4,4-diphenyl-6-piperidino-3-hexanone)
- (7) Phenadoxone (6-morpholino-4,4-diphenyl-3-heptanone)
- 6. Methadols, their salts, derivatives and salts of derivatives, including:
 - (1) Acetylmethadol (6-dimethylamino-4,4-diphenyl-3-heptanol acetate)
 - (2) Alphacetylmethadol (?-6-dimethylamino-4,4-diphenyl-3-heptanol acetate)
 - (3) Alphamethadol (?-6-dimethylamino-4,4-diphenyl-3-heptanol)
 - (4) Betacetylmethadol (β -6-dimethylamino-4,4-diphenyl-3-heptanol acetate)
 - (5) Betamethadol (β -6-dimethylamino-4,4-diphenyl-3-heptanol)
 - (6) Dimepheptanol (6-dimethylamino-4,4-diphenyl-3-heptanol)
 - (7) Noracymethadol (?-6-methylamino-4,4-diphenyl-3-heptanol acetate)
- 7. Phenalkoxams, their salts, derivatives and salts of derivatives, including
 - (1) Dimenoxadol (dimethylaminoethyl 1-ethoxy-1,1-diphenylacetate)
 - (2) Dioxaphetyl butyrate (ethyl 2,2-diphenyl-4-morpholinobutyrate)
 - (3) Dextropropoxyphene ([S-(R*,S*)]-?-[2-(dimethylamino)-1-methylethyl]-?-phenylbenzeneethanol, propanoate ester)
- 8. Thiambutenes, their salts, derivatives and salts of derivatives, including:
 - (1) Diethylthiambutene (N,N-diethyl-1-methyl-3,3-di-2-thienylallylamine)
 - (2) Dimethylthiambutene (N,N,1-trimethyl-3,3-di-2-thienylallylamine)
 - (3) Ethylmethylthiambutene (N-ethyl-N,1-dimethyl-3,3-di-2-thienylallylamine)
- 9. Moramides, their intermediates, salts, derivatives and salts of intermediates and derivatives, including:
 - (1) Dextromoramide (d-1-(3-methyl-4-morpholino-2,2-diphenylbutyryl)pyrrolidine)
 - (2) Diphenylmorpholinoisovaleric acid (2-methyl-3-morpholino-1,1-diphenylpropionic acid)
 - (3) Levomoramide (*l*-1-(3-methyl-4-morpholino-2,2-diphenylbutyryl)pyrrolidine)
 - (4) Racemoramide (d,l-1-(3-methyl-4-morpholino-2,2-diphenylbutyryl)pyrrolidine)
- 10. Morphinans, their salts, derivatives and salts of derivatives, including:
 - (1) Buprenorphine (17-(cyclopropylmethyl)-?(1,1-dimethylethyl)-4,5-epoxy-18,19-dihydro-3-hydroxy-6-methoxy-?-methyl-6,14-ethenomorphinan-7-methanol)
 - (2) Drotebanol (6 β ,14-dihydroxy-3,4-dimethoxy-17-methylmorphinan)
 - (3) Levomethorphan (1-3-methoxy-17-methylmorphinan)
 - (4) Levorphanol (1-3-hydroxy-17-methylmorphinan)
 - (5) Levophenacymorphan (1-3-hydroxy-17-phenacymorphinan)
 - (6) Norlevorphanol (1-3-hydroxymorphinan)
 - (7) Phenomorphan (3-hydroxy-17-(2-phenylethyl)morphinan)
 - (8) Racemethorphan (d,l-3-methoxy-17-methylmorphinan)
 - (9) Racemorphan (*d,l*-3-hydroxy-N-methylmorphinan)but not including
 - (10) Dextromethorphan (d-1.2.3.9.10.10a-hexahydro-6-methoxy-11-methyl-4H-10.4a-

iminoethanophenanthren)

(11)Dextrorphan (d-1,2,3,9,10,10a-hexahydro-11-methyl-4H-10,4a-iminoethanophenanthren-6-ol)

(12)Levallorphan (l-11-allyl-1,2,3,9,10,10a-hexahydro-4H-10,4a-iminoethanophenanthren-6-ol)

(13)Levargorphan (*l*-11-propargyl-1,2,3,9,10,10a-hexahydro-4H-10,4a-iminoethanophenanthren-6-ol)

(14)Butorphanol (17-(cyclobutylmethyl)morphinan-3,14-diol)

(15)Nalbuphine (17-(cyclobutylmethyl)-4,5?-epoxymorphinan-3,6?,14-triol)

11. Benzazocines, their salts, derivatives and salts of derivatives, including:

(1)Phenazocine (1,2,3,4,5,6-hexahydro-6,11-dimethyl-3-phenethyl-2,6-methano-3-benzazocin-8-ol)

(2)Metazocine (1,2,3,4,5,6-hexahydro-3,6,11-trimethyl-2,6-methano-3-benzazocin-8-ol)

(3)Pentazocine (1,2,3,4,5,6-hexahydro-6,11-dimethyl-3-(3-methyl-2-butenyl)-2,6-methano-3-benzazocin-8-ol)

but not including

(4)Cyclazocine (1,2,3,4,5,6-hexahydro-6,11-dimethyl-3-(cyclopropylmethyl)-2,6-methano-3-benzazocin-8-ol)

12. Ampromides, their salts, derivatives and salts of derivatives, including:

(1)Diampromide (N-[2-(methylphenethylamino)propyl]propionanilide)

(2)Phenampromide (N-(1-methyl-2-piperidino)ethyl)propionanilide)

(3)Propiram (N-(1-methyl-2-piperidinoethyl)-N-2-pyridylpropionamide)

13. Benzimidazoles, their salts, derivatives and salts of derivatives, including:

(1)Clonitazene (2-(p-chlorobenzyl)-1-diethylaminoethyl-5-nitrobenzimidazole)

(2)Etonitazene (2-(p-ethoxybenzyl)-1-diethylaminoethyl-5-nitrobenzimidazole)

14. Phencyclidine (1-(1-phenylcyclohexyl)piperidine), its salts, derivatives and analogues and salts of derivatives and analogues

15. Fentanyl, their salts, derivatives, and analogues and salts of derivatives and analogues, including:

(1)Acetyl-?-methylfentanyl (N-[1-(?-methylphenethyl)-4-piperidyl]acetanilide)

(2)Alfentanil (N-[1-[2-(4-ethyl-4,5-dihydro-5-oxo-1H-tetrazol-1-yl)ethyl]-4-(methoxymethyl)-4-piperidyl]propionanilide)

(3)Carfentanil (methyl 4-[(1-oxopropyl)phenylamino]-1-(2-phenethyl)-4-piperidinecarboxylate)

(4)p-Fluorofentanyl (4'fluoro-N-(1-phenethyl-4-piperidyl) propionanilide)

(5)Fentanyl (N-(1-phenethyl-4-piperidyl)propionanilide)

(6) β -Hydroxyfentanyl (N-[1-(β -hydroxyphenethyl)-4-piperidyl] propionanilide)

(7) β -Hydroxy-3-methylfentanyl (N-[1(β -hydroxyphenethyl)-3-methyl-4-piperidyl] propionanilide)

(8)?-Methylfentanyl (N-[1-(?-methylphenethyl)-4-piperidyl] propionanilide)

- (9)?-Methylthiofentanyl (N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl] propionanilide)
 - (10) 3-Methylfentanyl (N-(3-methyl-1-phenethyl-4-piperidyl) propionanilide)
 - (11) 3-Methylthiofentanyl (N-[3-methyl-1-[2-(2-thienyl)ethyl]-4-piperidyl] propionanilide)
 - (11.1) Remifentanyl (dimethyl 4-carboxy-4-(N-phenylpropionamido)-1-piperidinepropionate)
 - (12) Sufentanyl (N-[4-(methoxymethyl)-1-[2-(2-thienyl)ethyl]-4-piperidyl] propionanilide)
 - (13) Thiofentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidyl] propionanilide)
16. Tilidine (ethyl 2-(dimethylamino)-1-phenyl-3-cyclohexene-1-carboxylate), its salts, derivatives and salts of derivatives
17. Cannabis, its preparations, derivatives and similar synthetic preparations, including:
- (1) Cannabis resin
 - (2) Cannabis (marihuana)
 - (3) Cannabidiol (2-[3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)
 - (4) Cannabinol (3-n-amyl-6,6,9-trimethyl-6-dibenzo-pyran-1-ol)
 - (5) Nabilone((±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,-10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one)
 - (6) Pyrahexyl (3-n-hexyl-6,6,9-trimethyl-7,8,9,10-tetrahydro-6-dibenzopyran-1-ol)
 - (7) Tetrahydrocannabinol(tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol)
 - (7.1) 3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol (DMHP)
- but not including
- (8) Non-viable Cannabis seed, with the exception of its derivatives
 - (9) Mature Cannabis stalks that do not include leaves, flowers, seeds or branches; and fiber derived from such stalks

SOR/97-227, s. 5; SOR/98-158, s. 1; SOR/99-372, ss. 1, 2; SOR/2000-244, s. 1(E); SOR/2003-33, s. 1.

E/NL.2004/27

SOR/2000-217

Registration 1 June, 2000

CONTROLLED DRUGS AND SUBSTANCES ACT

BENZODIAZEPINES AND OTHER TARGETED SUBSTANCES REGULATIONS

P.C. 2000-827 1 June, 2000

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,¹ hereby makes the annexed *Benzodiazepines and Other Targeted Substances Regulations (1091)*.

BENZODIAZEPINES AND OTHER TARGETED SUBSTANCES REGULATIONS

[SOR/2003-38, s. 1]

INTERPRETATION

Definitions

1. (1) The definitions in this subsection apply in these Regulations.

"Act"

"Act" means the *Controlled Drugs and Substances Act*.²

"adult"

"adult" means an individual of 18 years of age or older.

"advertisement"

"advertisement", in respect of a targeted substance, includes any representation by any means for the purpose of promoting, directly or indirectly, the sale or other disposal of the targeted substance

"Department"

"Department" means the Department of Health.

"designated drug offence"

"designated drug offence" means

(a) an offence against section 39, 44.2, 44.3, 48, 50.2 or 50.3 of the *Food and Drugs Act*,³ as those provisions read immediately before May 14, 1997;

¹ Original note: S.C.1996, c.19

² Note by the Secretariat: E/NL.2004/21

³ Note by the Secretariat: E/NL.2004/17

(b) an offence against section 4, 5, 6, 19.1 or 19.2 of the *Narcotic Control Act*,⁴ as those provisions read immediately before May 14, 1997;

(c) an offence under Part I of the Act, except subsection 4(1); and

(d) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraphs (a) to (c).

"emergency medical service vehicle"

"emergency medical service vehicle" means any conveyance authorized under the laws of a province to transport individuals to hospitals and on which emergency medical services are provided.

"export permit"

"export permit" means a permit issued under section 43.

"hospital"

"hospital" means a facility that

(a) is licensed, approved or designated as a hospital by a province under the laws of the province to provide health care or treatment to persons or animals; or

(b) is owned or operated by the government of Canada or of a province and that provides health services.

"import permit"

"import permit" means a permit issued under section 37.

"international obligation"

"international obligation" means an obligation relative to a targeted substance set out in a convention, treaty or other multilateral or bilateral instrument that Canada has ratified or to which Canada adheres.

"licensed dealer"

"licensed dealer" means the holder of a dealer's licence issued under these Regulations.

"package"

"package" includes anything in which a targeted substance is wholly or partly contained, placed or packed.

"pharmacist"

"pharmacist" means an individual who

(a) is registered or otherwise authorized under the laws of a province to practise pharmacy; and

(b) is practising pharmacy in that province.

"prescription"

"prescription" means, in respect of a targeted substance, an authorization from a practitioner stating that a specific amount of the targeted substance may be sold or provided for the individual or animal under the practitioner's care named in the authorization.

⁴ Note by the Secretariat: E/NL.1980/45

"qualified person in charge"

"qualified person in charge" means the individual with the qualifications set out in subsection 19(2) who is responsible for supervising the activities carried out by a licensed dealer under a dealer's licence at the premises specified in the licence.

"Security Directive"

"Security Directive" means the *Directive on Physical Security Requirements for Controlled Substances (Security Requirements for Licensed Dealers for the Storage of Controlled Substances)* published by the Department, as amended from time to time.

"specified name"

"specified name" means, in respect of a controlled substance included in Schedule 1,

(a) the name specified in column 1 of an item of Schedule 2, but, if only the chemical name is specified, means the chemical name specified in column 2 of that item; or

(b) if the controlled substance is not specified in Schedule 2, its chemical name and, if available, its name.

"targeted substance"

"targeted substance" means

(a) a controlled substance that is included in Schedule 1; or

(b) a product or compound that contains a controlled substance that is included in Schedule 1.

"test kit"

"test kit" means a kit

(a) that contains

(i) a targeted substance, and

(ii) a reagent system or buffering agent, or both;

(b) that is designed to be used during the course of a chemical or analytical procedure to test for the presence or quantity of a targeted substance for a medical, laboratory, industrial, educational, law enforcement or research purpose; and

(c) the contents of which are not intended or likely to be consumed by, or administered to, a human or an animal.

"transshipment"

"transshipment" means, in respect of a targeted substance that has been unloaded or in any way removed from the means of transportation by which it came into Canada, its loading or placing on board or within or on the same or any other means of transportation used for its departure from Canada.

Destruction of a targeted substance

(2) For the purpose of these Regulations, a targeted substance is destroyed when it is altered or denatured to such an extent that its consumption is rendered impossible or improbable.
SOR/2003-38, s. 2.

DESTRUCTION

Prohibition

2. (1) Subject to subsections (2) and 33(1), no person shall destroy a targeted substance other than a targeted substance that has been lawfully sold or provided to an individual for their own use or for the benefit of another individual or an animal under their care.

Conditions

(2) A pharmacist, a practitioner or the individual in charge of a hospital may destroy a targeted substance if

(a) the pharmacist, practitioner or hospital records, before the destruction, information with respect to the destruction, including the name, strength per unit and quantity of the targeted substance to be destroyed;

(b) the targeted substance is destroyed using a method of destruction that conforms with all applicable federal, provincial and municipal environmental legislation;

(c) the person records the date of destruction;

(d) subject to subsection (3), the destruction is witnessed by a pharmacist or a practitioner; and

(e) immediately following the destruction, the person who destroyed the targeted substance and the witness referred to in paragraph (d) sign and print their names on a joint statement, indicating that they witnessed the destruction and that the targeted substance destroyed has been altered or denatured to such an extent that its consumption has been rendered impossible or improbable.

Open Ampule

(3) A targeted substance that constitutes the remainder of an open ampule, the partial contents of which have been administered to a patient, may be destroyed by a hospital employee who is a licensed health professional without a witness.

ADVERTISING

Restrictions

3. A person must not

(a) advertise a targeted substance to the general public; or

(b) issue or publish an advertisement for a targeted substance unless the advertisement

(i) is published in literature distributed to, or in a trade publication for, licensed dealers, pharmacists, practitioners or hospitals, and

(ii) displays in the upper left quarter of its first page, in a clear manner and in a conspicuous colour and size, the following symbol:

SYMBOL

GRAPHIC IS NOT DISPLAYED, SEE SOR/2000-217, P. 1399.

CLASS 2 TARGETED SUBSTANCES

Obtaining the targeted substance

4. (1) A person listed in subsection (2) may possess a targeted substance set out in Part 2 of Schedule 1 if the person has obtained the targeted substance

(a) in accordance with these Regulations;

(b) in the course of activities performed in connection with the enforcement or administration of any Act or regulations made thereunder; or

(c) from a person who is exempt under section 56 of the Act from the application of subsection 5(1) of the Act with respect to that targeted substance.

Possession

(2) The following persons may possess a targeted substance set out in Part 2 of Schedule 1:

(a) a person who requires the targeted substance for their business or profession and is

(i) a licensed dealer acting in accordance with their licence,

(ii) a pharmacist, or

(iii) a practitioner who is registered and entitled to practise in the province in which the practitioner has such possession;

(b) a practitioner who is registered and entitled to practise in a province other than the province in which the practitioner has such possession and such possession is for emergency medical purposes only;

(c) a hospital employee or a practitioner in a hospital and such possession is for the purposes of and in connection with such employment;

(d) a person who has obtained the targeted substance for their own use or for the benefit of another person or an animal under their care

(i) from a practitioner in the course of treatment for a medical condition, or

(ii) from a pharmacist pursuant to a prescription issued or obtained in conformity with these Regulations;

(e) a person who has imported the targeted substance in accordance with section 68 for the person's own use or for the benefit of another person or an animal under their care;

(f) a person who is employed as an inspector, an analyst, a peace officer, a member of the Royal Canadian Mounted Police or a member of the technical or scientific staff of a department of the government of Canada or of a province and such possession is for the purposes of and in connection with such employment; or

(g) a person who, pursuant to a permit issued under Part 7, is responsible for the targeted substance while it is in transit or in transshipment in Canada.

Employees

(3) A person may possess a targeted substance set out in Part 2 of Schedule 1 if the person is an employee of or is acting as the agent for a person referred to in any of paragraphs (2)(a) to (e) and (g), while acting in the course of their employment duties or role as agent.

Agent

(4) A person may possess a targeted substance set out in Part 2 of Schedule 1 if

(a) the person is acting as the agent of a person who he or she has reasonable grounds to believe is a person referred to in paragraph (2)(f); and

(b) the possession of the targeted substance is for the purpose of assisting the person referred to in paragraph (2)(f) in the administration or enforcement of any Act or regulations made thereunder.

Exportation by a licensed dealer

(5) A licensed dealer may possess a targeted substance set out in Part 2 of Schedule 1 for the purpose of exporting that substance if the licensed dealer has obtained the substance under these Regulations and is licensed to export the targeted substance.

Exportation by an individual

(6) An individual may possess a targeted substance set out in Part 2 of Schedule 1 for the purpose of exporting that substance in accordance with section 69.

SECURITY

Verification of identity

5. Every person who is requested to fill an order or a prescription for a targeted substance must verify in a reasonable manner the identity of the person who gave the order or issued the prescription if

- (a) the signature on the order or prescription is not known to the person; or
- (b) the order or prescription is verbal and the person placing it is not known to the person.

Storage

6. Subject to section 59, a person licensed or otherwise authorized under these Regulations to deal in a targeted substance must store the targeted substance in the place used for the purpose of conducting their business or professional practice and in the area in that place where only authorized employees have access, except where the targeted substance is for the person's own use or for the benefit of another person or animal under their care.

Security and reporting loss or theft

7. (1) The following persons must take any steps that are necessary to ensure the security of a targeted substance in their possession and any licence or permit in their possession with respect to a targeted substance and must, not later than 10 days after discovery, report to the Minister any loss or theft of a targeted substance or of a licence or permit:

- (a) a licensed dealer;
- (b) a pharmacist;
- (c) a practitioner;
- (d) the person in charge of a hospital;
- (e) a person to whom an exemption has been granted under section 56 of the Act; and
- (f) a person who, pursuant to a permit issued under Part 7, is responsible for the targeted substance while it is in transit or in transshipment in Canada.

Security of codes

(2) Every person who has issued or been issued an identifying code referred to in subsections 27(6) and (7) of the *Narcotic Control Regulations* must

- (a) take any steps that are necessary to ensure the security of the code; and
- (b) report to the Minister, not later than 10 days after discovery, any loss or theft of the code, a machine that is capable of producing a code or a document that discloses the code.

DOCUMENTS

Alteration prohibited

8. A person must not make any mark on or alter or deface in any manner any licence, permit or registration number issued under these Regulations.

Retention of information

9. The information or records required by these Regulations must be kept for a period of at least two years after

(a) in the case of information, the day that the information was obtained; and

(b) in the case of a record, the day that the last transaction was recorded on the record.

GENERAL OBLIGATIONS OF THE MINISTER

Notice of refusal or revocation

10. (1) Subject to section 29 and subsections 41(4) and 47(4), if the Minister proposes to refuse to issue, amend or renew or proposes to revoke a licence, permit or registration number under these Regulations, the Minister must

(a) send a notice to the applicant or to the holder of the licence, permit or registration number together with a written report that sets out the reasons for the refusal or revocation; and

(b) give the applicant or holder an opportunity to be heard in respect of the refusal or revocation.

Notice of suspension

(2) The suspension of a licence or permit under these Regulations takes effect as soon as the Minister informs the holder of the licence or permit of the decision to suspend and provides a written report that sets out the reasons for the suspension.

Opportunity to be heard

(3) A person who receives a notice of suspension referred to in subsection (2) may, in the 10 days following the receipt of the notice, provide the Minister with reasons why the suspension of the licence or permit is unfounded.

Further information

11. The Minister may, on receiving an application made under these Regulations, require the submission of any further information that pertains to the information contained in the application and that is necessary for the Minister to process the application.

Inspection of premises

12. In order to confirm any information contained in an application for a licence made under these Regulations or an amendment or a renewal of a licence, an inspector may, at a time during normal business hours that is convenient for the applicant and with the reasonable assistance of the applicant, inspect the premises for which the licence, amendment or renewal is requested.

Order to return a seized substance

13. (1) For the purpose of subsection 24(1) of the Act, notice of application for an order to return a seized substance shall be given in writing to the Attorney General by registered mail.

Information

(2) The notice referred to in subsection (1) shall be mailed not less than 15 clear days prior to the date the application is to be made to a justice and must specify

- (a) the name of the justice to whom the application is to be made;
- (b) the time and place where the application is to be heard;
- (c) the targeted substance in respect of which the application is to be made; and
- (d) the evidence upon which the applicant intends to rely to establish that the applicant is entitled to possession of the targeted substance.

Police enforcement

14. Where, pursuant to the *Controlled Drugs and Substances Act (Police Enforcement) Regulations*, a member of a police force or a person acting under the direction and control of the member is, in respect of the conduct of the member or person, exempt from the application of subsection 4(2) or section 5, 6 or 7 of the Act, the member or person is, in respect of that conduct, exempt from the application of these Regulations.

PART 1

LICENSED DEALERS

Permitted Activities

Activities

15. (1) Subject to subsection (2), sections 4 and 16 and subsection 33(1), a licensed dealer may

- (a) possess a targeted substance set out in Part 2 of Schedule 1; and
- (b) produce, make, assemble, import, export, sell, provide, send, deliver, transport or destroy a targeted substance.

Activities limited

(2) A licensed dealer may carry out an activity set out in subsection (1) if the licensed dealer

- (a) is licensed to carry on the activity with respect to that targeted substance;
- (b) carries out the activity in accordance with any conditions set out in the dealer's licence;
- (c) sells or provides the targeted substance to
 - (i) another licensed dealer,
 - (ii) a pharmacist,
 - (iii) a practitioner,
 - (iv) a hospital,
 - (v) the Minister, or
 - (vi) a person to whom an exemption relating to the substance has been granted under section 56 of the Act;
- (d) in the case of a producer of a targeted substance, produces the substance in the quantities and within the periods authorized by the dealer's licence;
- (e) in the case of a maker or assembler of a product or compound that contains a targeted substance, but that is not a test kit, sells or provides the product or compound in the strength per unit and the quantity or package size authorized by the dealer's licence;
- (f) in the case of the importation of a targeted substance, has an import permit issued under section 37; and

(g) in the case of the exportation of a targeted substance, has an export permit issued under section 43.

Order required

16. (1) Subject to subsection (4), a licensed dealer must not sell or provide a targeted substance to a person referred to in paragraph 15(2)(c) before the dealer has received an order for the substance, either in writing in accordance with subsection (2) or verbally and recorded in accordance with subsection (3), from

(a) in the case of a hospital, a pharmacist practising in the hospital or a practitioner authorized to place orders for the substance on behalf of the hospital;

(b) in the case of a licensed dealer, a person who is authorized to place an order for the substance on behalf of the licensed dealer; or

(c) in any other case, the person to whom the substance is to be sold or provided in accordance with the Act and these Regulations.

Written orders

(2) A written order for a targeted substance must

(a) be signed by a person described in any of paragraphs (1)(a) to (c); or

(b) in the case of an order transmitted electronically, be encoded in accordance with the requirements set out in subsections 27(6) and (7) of the *Narcotic Control Regulations*.

Verbal orders

(3) A licensed dealer who receives a verbal order must, before filling the order, record the following information with respect to the order:

(a) the date and number of the order;

(b) the name and address of the person for whom the order is placed;

(c) the brand name of the targeted substance ordered or, if the targeted substance does not have a brand name, the specified name;

(d) the quantity and, if applicable, the strength per unit of the targeted substance ordered;

(e) the name of the individual placing the order; and

(f) the name of the individual recording the order.

Supply prohibited

(4) A licensed dealer must not sell or provide a targeted substance to a pharmacist or practitioner named in a notice issued under section 79, unless the dealer has received a retraction issued under section 80.

Multiple deliveries

17. A licensed dealer must not, in respect of an order for a targeted substance, deliver the order in more than one delivery unless

(a) the order for the substance states that the quantity of the substance that was ordered is to be supplied

(i) in separate deliveries, which in no case may total more than four, and

(ii) at specified intervals or on specified dates; or

(b) the licensed dealer has insufficient stock of the substance at the time of receipt of the order, in which case the dealer may supply the quantity of the substance that the dealer has in stock and may deliver the balance afterwards in a single supplementary delivery.

Eligibility

Eligible persons

18. To be eligible to be a licensed dealer, a person must be

- (a) an individual who ordinarily resides in Canada;
- (b) a corporation that has its head office in Canada or operates a branch office in Canada; or
- (c) an individual who occupies a position that includes responsibility for a targeted substance on behalf of a department of the government of Canada or of a province, a police force, a hospital or a university in Canada.

Qualified person in charge

19. (1) A licensed dealer

- (a) must employ, at the premises to which the dealer's licence applies, no more than one qualified person in charge (who may be the licensed dealer) who supervises the activities with respect to the targeted substances set out in the dealer's licence and who is responsible for ensuring compliance with these Regulations on behalf of the licensed dealer; and
- (b) may employ an alternate qualified person in charge at that premises who may perform the duties of the qualified person in charge when that person is absent.

Qualifications

(2) The qualified person in charge and, if applicable, the alternate qualified person in charge must

- (a) be familiar with the provisions of the Act and the regulations that apply to the dealer's licence held by their employer and have a sufficient knowledge of chemistry and pharmacology and experience in those fields to properly carry out their duties;
- (b) be a pharmacist or a practitioner registered with a licensing body of a province or possess a degree in an applicable science -- such as pharmacy, medicine, dentistry, veterinary medicine, pharmacology, organic chemistry or chemical engineering -- awarded by a Canadian university or by a foreign university recognized by a Canadian university or a Canadian professional association; and
- (c) not have, in the previous 10 years of their adult life, a criminal record in respect of
 - (i) in Canada, a designated drug offence, or
 - (ii) in a country other than Canada, an offence that, if committed in Canada, would have constituted a designated drug offence.

Application for a Dealer's Licence

Information and documents

20. (1) To apply for a dealer's licence, a person must submit the following information to the Minister;

- (a) with respect to the applicant,

- (i) their name or, if the applicant is a corporation, their corporate name and any other name registered with a province, under which the applicant will carry out the activities set out in its dealer's licence or will identify itself,
 - (ii) their address, telephone number and, if applicable, the facsimile transmission number and e-mail address of the premises to which the dealer's licence would apply, and
 - (iii) if different from the address of the premises referred to in subparagraph (ii), the applicant's mailing address;
- (b) the name, date of birth and gender of the individual in charge of the premises referred to in subparagraph (a)(ii);
- (c) with respect to the qualified person in charge and, if applicable, the alternate qualified person in charge at the premises referred to in subparagraph (a)(ii),
- (i) their name, date of birth and gender,
 - (ii) their academic qualifications, training and work experience relevant to the duties of the qualified person in charge,
 - (iii) their hours of work,
- (A) at the premises referred to in subparagraph (a)(ii), and
- (B) at any other work location,
- (iv) their title at each work location,
 - (v) the name and title of their immediate supervisor at each work location, and
 - (vi) in the case of a pharmacist or a practitioner, the name of the province in which the person's current professional licence, certification or authorization was issued and the professional licence, certification or authorization number;
- (d) a list of the names of the individuals authorized to place an order for a targeted substance on behalf of the applicant;
- (e) the activities set out in subsection 15(1) for which the licence is sought that would be carried out at the premises to which the dealer's licence would apply;
- (f) in the case of a product or compound that contains a targeted substance, but that is not a test kit, that would be made or assembled for or by the applicant, a list that sets out
- (i) the brand name of each product or compound,
 - (ii) the specified name of the targeted substance in each product or compound,
 - (iii) the strength per unit of the targeted substance in each product or compound,
 - (iv) the quantity or package sizes of each product or compound, and
 - (v) if the product or compound would be made or assembled by or for another licensed dealer under a custom order, the name, address and licence number of that other dealer;
- (g) if the licence is sought to produce a controlled substance included in Schedule 1,
- (i) the specified name of the substance,
 - (ii) the quantity, other than a product or compound that contains a controlled substance that is included in Schedule 1, that the applicant expects to produce under the dealer's licence and the period during which that quantity would be produced, and

(iii) if the substance would be produced for another licensed dealer under a custom order, the name, address and licence number of that other dealer;

(h) a description of the security measures, as determined in accordance with the Security Directive, at the applicant's premises referred to in subparagraph (a)(ii);

(i) a description of the method that the applicant proposes to use for recording their targeted substance transactions; and

(j) for any activity set out in subsection 15(1), other than the activities described in paragraphs (f) and (g), the specified name of the targeted substance and the purpose for carrying out the activity.

Attestation by signatory

(2) An application for a dealer's licence must

(a) be signed by the individual in charge of the premises to which the licence would apply; and

(b) include a statement signed by the individual in charge indicating that

(i) all information and documents submitted in support of the application are correct and complete to the best of that individual's knowledge, and

(ii) the individual in charge has the authority to bind the applicant.

Accompanying documents

(3) An application for a dealer's licence must be accompanied by

(a) a signed declaration from the individual in charge of the premises, a signed declaration from the qualified person in charge and, if applicable, a signed declaration from the alternate qualified person in charge, stating that the individual has not, as an adult, been convicted of

(i) in Canada, a designated drug offence, and

(ii) in a country other than Canada, an offence that, if committed in Canada, would have constituted a designated drug offence;

(b) a document issued by a Canadian police force with respect to each of the following individuals, setting out the individual's criminal record, as an adult, in respect of a designated drug offence, or indicating that the individual has no such record:

(i) the individual in charge of the premises as set out in the request,

(ii) the qualified person in charge, and

(iii) if applicable, the alternate qualified person in charge;

(c) if the individual in charge of the premises, the qualified person in charge or, if applicable, the alternate qualified person in charge has ordinarily resided in a country other than Canada in the preceding 10 years, a document issued by a police force of that country setting out the individual's criminal record, as an adult, in respect of a designated drug offence, or indicating that the individual has no such record;

(d) a statement, signed and dated by the individual in charge of the premises, stating that the qualified person in charge and, if applicable, the alternate qualified person in charge have the knowledge and experience set out in paragraph 19(2)(a);

(e) if the qualified person in charge or, if applicable, the alternate qualified person in charge is not a pharmacist or a practitioner registered with a licensing body of a province, a copy of the person's degree referred to in paragraph 19(2)(b);

(f) where the applicant's name appears on the label of a product or compound that contains a targeted substance, a copy of the inner label, as defined in section A.01.010 of the *Food and Drug Regulations*, for each product or compound to which the licence would apply; and

(g) if the applicant is a corporation, a copy of

(i) the certificate of incorporation or other constituting instrument, and

(ii) any document filed with the province in which the premises to which the licence would apply is located that states its corporate name or any other name registered with a province, under which the applicant will carry out the activities set out in its dealer's licence or will identify itself.

Recording Method

(4) The method proposed by the applicant under paragraph (1)(i) must

(a) be capable of accounting for all targeted substances, including the strength of each targeted substance per unit in each product or compound and the number of doses in each container of a targeted substance, in the possession of the licensed dealer as required under section 35; and

(b) permit the Minister to audit the activities of the licensed dealer with respect to targeted substances.

Issuance of a Dealer's Licence

Content of licence

21. Subject to section 22, the Minister must, after examining the information and documents required under sections 11 and 20, issue a dealer's licence that sets out the following particulars:

(a) the licence number;

(b) the name of the licensee or, if the applicant is a corporation, their corporate name;

(c) the activities that are permitted and, if the licence authorizes destruction, whether the licensed dealer may destroy targeted substances other than those that the licensed dealer produced, made, assembled, sold or provided;

(d) the address of the premises at which the licensed dealer may carry on the permitted activities;

(e) the targeted substance for which the activities are permitted;

(f) the security level and the applicable inventory limitation required at the premises referred to in paragraph (d);

(g) the date of issuance;

(h) the date of expiry;

(i) any conditions that are necessary to

(i) comply with an international obligation,

(ii) provide the level of security referred to in paragraph (f), or

(iii) reduce the potential security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use;

(j) in the case of a producer of a targeted substance, the quantity of the targeted substance that may be produced under the licence and the period in which that quantity may be produced; and

(k) in the case of the maker or assembler of a product or compound that contains a targeted substance, but that is not a test kit, an annexed list that sets out the following information for each type of product or compound that may be made or assembled under the licence:

- (i) the licence number,
- (ii) the brand name of each product or compound,
- (iii) the specified name of the targeted substance in each product or compound,
- (iv) the strength per unit of the targeted substance in each product or compound, and
- (v) the quantity or package sizes of each product or compound.

Grounds for Refusal

Refusal of the Minister

22. The Minister must refuse to issue, renew or amend a dealer's licence in the following cases:

- (a) the applicant is not an eligible person described in section 18;
- (b) the inspector, who has requested an inspection, has not been given the opportunity by the applicant to conduct a satisfactory inspection under section 12;
- (c) false or misleading information or false or falsified documents were submitted in or with the application;
- (d) an activity for which the licence is requested would contravene an international obligation;
- (e) information received from a competent authority of a country other than Canada or the United Nations raises a reasonable belief that the applicant has contravened an international obligation;
- (f) the applicant does not have in place the security measures set out in the Security Directive in respect of an activity for which the licence is requested;
- (g) the applicant is in contravention of or has contravened in the past 10 years
 - (i) a provision of the Act or any regulations made or continued under the Act, or
 - (ii) a term or condition of another dealer's licence or an import or export permit issued to it under any regulations made or continued under the Act;
- (h) the issuance of the licence would likely increase the potential security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use;
- (i) the individual in charge of the premises, the qualified person in charge or, if applicable, the alternate qualified person in charge has, in the previous 10 years of their adult life, a criminal record in respect of
 - (i) in Canada, a designated drug offence, or
 - (ii) in a country other than Canada, an offence that, if committed in Canada, would have constituted a designated drug offence;
- (j) the proposed method of record keeping referred to in paragraph 20(1)(i) is not capable of accounting for the applicant's targeted substance transactions as required under section 35 or permitting the Minister to audit the applicant's activities with respect to targeted substances in a timely manner; or
- (k) the information required under section 11 has not been provided or is insufficient to process the application.

Expiration

Duration of dealer's licence

23. A dealer's licence expires on December 31 of the calendar year for which it is issued.

Application for Renewal

Renewal of dealer's licence

24. (1) To apply to renew a dealer's licence, the licensed dealer must submit to the Minister

(a) the information set out in paragraphs 20(1)(a) to (j); and

(b) the following documents:

(i) the documents referred to in paragraphs 20(3)(a), (b) and (d),

(ii) if applicable and if not previously submitted in respect of the dealer's licence that is being renewed, the document referred to in paragraph 20(3)(e), and

(iii) the original dealer's licence that is to be renewed.

Attestation by signatory

(2) An application for renewal must

(a) be signed by the individual in charge of the premises to which the renewed dealer's licence would apply; and

(b) include a statement signed by the individual in charge indicating that

(i) all information and documents submitted in support of the application are correct and complete to the best of their knowledge, and

(ii) the individual in charge has the authority to bind the applicant.

Issuance of renewal

(3) Subject to section 22, the Minister must, after examining the information and documents required under subsections (1) and (2) and section 11, issue a renewed dealer's licence that contains the information set out in paragraphs 21(a) to (k).

Amendment of Dealer's Licence

Application for amendment

25. (1) To have the content of its dealer's licence amended, a licensed dealer must submit to the Minister

(a) a written request setting out the amendment sought and, if applicable, the documents that support the amendment; and

(b) the original dealer's licence that the licensed dealer seeks to have amended.

Attestation by signatory

(2) An application for amendment must

(a) be signed by the qualified person in charge or, if applicable, the alternate qualified person in charge of the premises to which the amended dealer's licence would apply; and

(b) indicate that all information and documents submitted in support of the application are correct and complete to the best of the signatory's knowledge.

Issuance

(3) The Minister

(a) must, after examining the request for amendment and the supporting documentation, amend the dealer's licence in accordance with the request, unless there exists a circumstance set out in section 22; and

(b) may add any conditions that are necessary to

(i) comply with an international obligation,

(ii) provide for the level of security referred to in paragraph 21(f) or the new level applicable as a result of the amendment being implemented, or

(iii) reduce the potential security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use.

Changes in Information Provided

Prior approval or notice

26. (1) A licensed dealer must

(a) obtain the Minister's approval before making any of the following changes:

(i) a change relating to the security at the premises referred to in the dealer's licence, or

(ii) the replacement or the addition of

(A) an individual in charge of the premises to which the dealer's licence applies,

(B) a qualified person in charge and, if applicable, an alternate qualified person in charge at the premises to which the dealer's licence applies, and

(C) a person authorized to place an order for a targeted substance on behalf of the licensed dealer;

(b) notify the Minister, not later than 10 days after the event, when a person referred to in any of clause (a)(ii)(A) or (C) ceases to carry out their duties as set out in

(i) the application for a dealer's licence under section 20,

(ii) the application to renew a dealer's licence under section 24, or

(iii) the request for approval under paragraph (a); and

(c) notify the Minister, not later than the next business day after the event, when a person referred to in clause (a)(ii)(B) ceases to carry out their duties as set out in

(i) the application for a dealer's licence under section 20,

(ii) the application to renew a dealer's licence under section 24, or

(iii) the request for approval under paragraph (a).

New personnel

(2) The licensed dealer must, with the request for approval referred to in subparagraph (1)(a)(ii), provide the Minister with the following information and documents with respect to the new person:

(a) in the case of the replacement of the individual in charge of the premises to which the dealer's licence applies,

(i) the information specified in paragraph 20(1)(b), and

- (ii) the documents specified in paragraphs 20(3)(a) to (c);
- (b) in the case of the replacement of the qualified person in charge or the replacement or addition of an alternate qualified person in charge at the premises to which the dealer's licence applies,
- (i) the information specified in paragraph 20(1)(c), and
- (ii) the documents specified in paragraphs 20(3)(a) to (e); and
- (c) in the case of the replacement or addition of an individual who is authorized to place an order for a targeted substance on behalf of the licensed dealer, the individual's name.

Revocation or Suspension of Dealer's Licence

Revocation

27. The Minister must revoke a dealer's licence at the request of the licensed dealer or on being notified by the licensed dealer that the licence has been lost or stolen.

Other cases of revocation

28. (1) Subject to subsection (2) and section 29, the Minister must revoke a dealer's licence in accordance with subsection 10(1) in the following cases:

- (a) the licence was issued on the basis of false or misleading information or false or falsified documents submitted in or with the application;
- (b) the licensed dealer has failed to comply with a provision of the Act or the regulations or a term or condition of the licence or of an import or export permit issued under these Regulations;
- (c) the licensed dealer is no longer an eligible person under section 18; or
- (d) it has been discovered that the individual in charge of the premises to which the licence applies, the qualified person in charge or, if applicable, the alternate qualified person in charge at those premises has, in the previous 10 years of their adult life, a criminal record in respect of
 - (i) in Canada, a designated drug offence, or
 - (ii) in a country other than Canada, an offence that, if committed in Canada, would have constituted a designated drug offence.

Exceptions

(2) The Minister is not required to revoke a dealer's licence under paragraphs (1)(a) or (b) if

- (a) the licensed dealer has no history of non-compliance with the Act and the regulations made or continued under it; and
- (b) the licensed dealer has carried out, or signed an undertaking to carry out, corrective measures to ensure compliance with the Act and these Regulations.

Suspension -- security, public health and safety

29. The Minister must suspend a dealer's licence without prior notice if it is necessary to do so to protect security, public health or safety, including preventing a targeted substance from being diverted to an illicit market or use.

General Obligations of Licensed Dealers

Identification

30. In respect of a targeted substance, a licensed dealer must include the name set out in its dealer's licence on all the means by which it identifies itself, including on its advertising, product labels, orders, shipping documents and invoices.

Security

31. A licensed dealer must, when transporting an imported targeted substance between the port of entry and its premises, or when sending, delivering or transporting any targeted substance, including to the port of exit, take any steps that are necessary to ensure its safekeeping during transportation.

Qualified person present

32. A licensed dealer must not complete a transaction involving a targeted substance unless the qualified person in charge or, if applicable, the alternate qualified person in charge is physically present at the premises set out in the dealer's licence.

Destruction procedures

33. (1) A licensed dealer may destroy a targeted substance that it produced, made, assembled, sold or provided or, where authorized by its dealer's licence, any other targeted substance if

(a) before destroying the substance, the licensed dealer obtains the Minister's approval for the destruction in accordance with subsection 34(3); and

(b) the substance is destroyed in the presence of at least two employees of the licensed dealer qualified to witness the destruction, one of whom must be the qualified person in charge or, if applicable, the alternate qualified person in charge at the premises specified in the dealer's licence.

Witness to destruction

(2) An employee of the licensed dealer is qualified to witness the destruction if the employee

(a) is the qualified person in charge or, if applicable, the alternate qualified person in charge at the premises specified in the dealer's licence;

(b) has sufficient knowledge of chemistry or pharmacology and experience in those fields to be able to confirm that the targeted substance listed in the application for the Minister's approval has been destroyed, and whose duties for the licensed dealer do not include the receiving, preparing or shipping of targeted substances; or

(c) is a senior management officer of the licensed dealer.

Transportation of the targeted substance

(3) If the targeted substance is to be destroyed at a location other than the premises specified in the dealer's licence, the qualified person in charge or, if applicable, the alternate qualified person in charge at the premises specified in the dealer's licence must accompany the targeted substance to the location at which it is to be destroyed.

Obtaining approval for destruction

34. (1) To obtain the Minister's approval for a destruction of targeted substances, the licensed dealer must submit the following information to the Minister:

(a) the proposed date of destruction;

- (b) the location of destruction;
- (c) a brief outline of the method of destruction;
- (d) the names and qualifications of the witnesses;
- (e) a list of the targeted substances to be destroyed, including the specified name and, if applicable, the brand name;
- (f) the strength per unit, form and quantity of each targeted substance to be destroyed, including, if applicable, the number of units per package and the number of packages; and
- (g) the name, address and licence number of the licensed dealer.

Attestation by signatory

- (2) An application for the Minister's approval for the destruction of a targeted substance must
- (a) be signed by the qualified person in charge or, if applicable, the alternate qualified person in charge at the premises specified in the dealer's licence;
 - (b) include a statement indicating that the proposed method of destruction conforms with all applicable federal, provincial and municipal environmental legislation in the location where the targeted substance is to be destroyed; and
 - (c) indicate that all information submitted in support of the application is correct and complete to the best of the signatory's knowledge.

Approval by Minister

- (3) The Minister must approve the destruction of the targeted substance unless the Minister has reasonable grounds to believe that
- (a) false or misleading information or false or falsified documents have been submitted in or with the application;
 - (b) a proposed witness is not qualified under subsection 33(2);
 - (c) the targeted substance or a portion of it is required for the purposes of a criminal or administrative investigation, or any preliminary inquiry, trial or other proceeding under any Act or regulations thereunder;
 - (d) approval for the destruction would likely increase the potential security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use; or
 - (e) the targeted substance will not be destroyed within the meaning of subsection 1(2).

Records, Books, Electronic Data and Other Documents

Required information

35. Every licensed dealer must keep, at the premises set out in the dealer's licence, records, books, electronic data and other documents that contain the following information:

- (a) for each targeted substance transaction, the date of the transaction, the specified name and the quantity of the targeted substance received, produced, made, assembled, imported, purchased, exported, sold, provided, sent, delivered, transported or destroyed, as the case may be;
- (b) if the targeted substance is

- (i) produced, made or assembled, the quantity produced, made or assembled and, if applicable, the strength per unit of the substance, the number of units per package and the number of packages,
 - (ii) received or purchased, the name and address of the provider or seller,
 - (iii) imported, the name and address of the exporter and the country of export and any country of transit or transshipment,
 - (iv) sold, provided, sent, delivered or transported, the name and address of the purchaser or recipient,
 - (v) exported, the name and address of the importer, the country of final destination and any country of transit or transshipment, or
 - (vi) destroyed, the name and address of the qualified person in charge or, if applicable, the alternate qualified person in charge who supervised the destruction and the names and addresses of the other witnesses who attended at the destruction; and
- (c) an attestation signed and dated by each witness stating that they have witnessed the destruction and that the targeted substances were destroyed in accordance with these Regulations and the Minister's approval for the destruction.

Importation

Application for an Import Permit

Required information and documents

36. (1) To apply for a permit to import a targeted substance, a licensed dealer must submit the following information to the Minister:

- (a) their name, address and dealer's licence number;
- (b) with respect to the targeted substance to be imported,
 - (i) its specified name,
 - (ii) if it is a salt, the name of the salt,
 - (iii) if applicable, its brand name,
 - (iv) the quantity to be imported,
 - (v) in the case of a raw material, its purity, and
 - (vi) if applicable, its anhydrous content;
- (c) the name and address of the exporter in the country of export from whom the targeted substance is being obtained;
- (d) the port of entry;
- (e) the address of the customs office, sufferance warehouse or bonded warehouse to which the shipment is to be delivered; and
- (f) each mode of transportation used, the country of export and, if applicable, any country of transit or transshipment.

Attestation by signatory

- (2) An application for an import permit must

(a) be signed by the qualified person in charge or, if applicable, the alternate qualified person in charge at the premises to which the targeted substance will be transported directly after clearing customs in Canada; and

(b) indicate that all information submitted in support of the application is correct and complete to the best of the signatory's knowledge.

Issuance of an Import Permit

Content of permit

37. (1) Subject to section 38, the Minister must, after examining the information and documents required under sections 11 and 36, issue to the licensed dealer an import permit that sets out the following particulars:

(a) the permit number;

(b) the information set out in paragraphs 36(1)(a) to (f);

(c) the date of issuance;

(d) the date of expiry, which shall be the earliest of

(i) 120 days after the permit is issued, and

(ii) December 31 of the year in which the permit is issued; and

(e) any conditions that are necessary to

(i) comply with an international obligation, or

(ii) reduce the potential security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use.

Duration of permit

(2) An import permit is valid until the earliest of

(a) the expiry date set out in the permit,

(b) the expiry of the dealer's licence,

(c) the suspension or revocation of the dealer's licence under sections 27 to 29,

(d) the suspension or revocation of the permit under section 41, and

(e) the expiry, suspension or revocation of the export permit that applies to the targeted substance to be imported and that is issued by a competent authority in the country of export.

Refusal of permit

38. The Minister must refuse to issue an import permit if

(a) there exists a circumstance described in paragraphs 22(c) to (f) and (h), with any modifications that the circumstances require;

(b) the applicant does not hold a dealer's licence for the targeted substance that is to be imported or holds a dealer's licence that will expire before the date of importation;

(c) the applicant has been informed that one of the following applications submitted by the applicant with respect to the dealer's licence under which the targeted substance would be imported is to be refused under section 22:

(i) an application under section 20 for a dealer's licence,

- (ii) an application under section 24 to renew a dealer's licence, or
- (iii) an application under section 25 for the amendment of a dealer's licence; or
- (d) the Minister has reasonable grounds to believe that
 - (i) the shipment for which the permit is requested would contravene the laws of the country of export or any country of transit or transshipment, or
 - (ii) the importation is for the purpose of re-exporting the targeted substance without having added any economic value to it in Canada.

Provision of Copy

Copy of the permit

39. The holder of an import permit for a targeted substance must provide a copy of the permit to the customs office, sufferance warehouse or bonded warehouse, as the case may be, at the port of entry at the time of importation.

Declaration

Required information

40. The holder of an import permit must provide the Minister, within 15 days after the day of release, in accordance with the *Customs Act*, in Canada of a shipment that contains a targeted substance, with a declaration that contains the following information:

- (a) the name of the licensed dealer and the numbers of the dealer's licence and import permit with respect to the shipment;
- (b) the date of release of the shipment;
- (c) the specified name or brand name of the targeted substance received; and
- (d) the quantity and, if applicable, the strength per unit of the targeted substance received.

Revocation or Suspension of an Import Permit

Revocation

41. (1) The Minister must revoke an import permit at the request of the holder or if the holder informs the Minister that the permit has been lost or stolen.

Other cases of revocation

(2) Subject to subsection (3), the Minister must revoke an import permit in accordance with subsection 10(1) in the following cases:

- (a) there exists a circumstance described in any of paragraphs 28(1)(a) to (d) with respect to the dealer's licence under which the targeted substance would be imported; or
- (b) the importation is for the purpose of re-exporting the targeted substance without having added any economic value to it in Canada.

Exceptions

(3) The Minister is not required to revoke an import permit for the circumstances set out in paragraph (2)(a) if, the holder of the permit meets the conditions referred to in subsection 28(2).

Suspension without prior notice

(4) The Minister must suspend an import permit without prior notice if

- (a) the permit holder's dealer's licence that applies to the targeted substance being imported has expired or has been suspended or revoked;
- (b) it is necessary to protect security, public health or safety, including the risk of the targeted substance being diverted to an illicit market or use; or
- (c) the importation would contravene the laws of any country or transit or transshipment.

Exportation

Application for an Export Permit

Required information and documents

42. (1) To apply for a permit to export a targeted substance, a licensed dealer must submit the following information to the Minister:

- (a) their name, address and licence number;
- (b) with respect to the targeted substance to be exported,
 - (i) its specified name,
 - (ii) if it is a salt, the name of the salt,
 - (iii) if applicable, its brand name,
 - (iv) the quantity to be exported,
 - (v) in the case of a raw material, its purity, and
 - (vi) if applicable, its anhydrous content;
- (c) the name and address of the importer in the country of final destination;
- (d) the port of exit and, if applicable, any country of transit or transshipment;
- (e) the address of the customs office, sufferance warehouse or bonded warehouse at which the shipment is to be presented for export;
- (f) each mode of transportation used and the country of export; and
- (g) a statement that, to the best of their knowledge, the shipment does not contravene any requirement of the laws of the country of final destination or any country of transit or transshipment.

Accompanying document

(2) An application for an export permit for a targeted substance must be accompanied by a copy of the import permit issued by a competent authority in the country of final destination that sets out the name and the address of the premises of the importer in the country of final destination.

Attestation by signatory

- (3) An application for an export permit must
 - (a) be signed by the qualified person in charge or the alternate qualified person in charge at the premises from which the targeted substance will be sent to the port of exit; and
 - (b) indicate that all information submitted in support of the application is correct and complete to the best of the signatory's knowledge.

Issuance of an Export Permit

Content of permit

43. (1) Subject to section 44, the Minister must, after examining the information and documents required under sections 11 and 42, issue an export permit to the licensed dealer that sets out the following particulars:

- (a) the permit number;
- (b) the information set out in paragraphs 42(1)(a) to (f);
- (c) the date of issuance;
- (d) the date of expiry, which shall be the earliest of
 - (i) 180 days after the permit is issued,
 - (ii) December 31 of the year in which the permit is issued, and
 - (iii) the expiry date of the import permit issued by a competent authority in the country of final destination; and
- (e) any conditions that are necessary to
 - (i) comply with an international obligation, or
 - (ii) reduce the potential security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use.

Duration of permit

- (2) An export permit is valid until the earliest of
- (a) the expiry date set out in the permit,
 - (b) the expiry of the dealer's licence,
 - (c) the suspension or revocation of the dealer's licence under sections 27 to 29,
 - (d) the suspension or revocation of the export permit under section 47, and
 - (e) the expiry, suspension or revocation of the import permit that applies to the targeted substance to be exported and that is issued by a competent authority in the country of final destination.

Refusal of permit

44. The Minister must refuse to issue an export permit if

- (a) there exists a circumstance described in paragraphs 22(c) to (e) and (h), with any modifications that the circumstances require;
- (b) the applicant does not hold a dealer's licence for the targeted substance to be exported or holds a dealer's licence that will expire before the date of export;
- (c) the applicant has been informed that one of the following applications submitted by the applicant with respect to the dealer's licence under which the targeted substance would be exported is to be refused under section 22:
 - (i) an application made under section 20 for a dealer's licence,
 - (ii) an application made under section 24 to renew a dealer's licence, or
 - (iii) an application made under section 25 for the amendment of a dealer's licence;

(d) the Minister has reasonable grounds to believe that the shipment for which the permit is requested would contravene a requirement of the laws of the country of final destination or any country of transit or transshipment; or

(e) the shipment would not be in conformity with the import permit issued by a competent authority of the country of final destination.

Provision of Copy

Copy of the permit

45. The holder of an export permit for a targeted substance must provide a copy of the permit to the customs office, sufferance warehouse or bonded warehouse, as the case may be, at the port of exit at the time of exportation.

Declaration

Required information

46. The holder of an export permit must provide the Minister, within 15 days after the day of export of a shipment that contains a targeted substance, with a declaration that contains the following information:

(a) the name of the licensed dealer and the numbers of the dealer's licence and export permit with respect to the shipment;

(b) the date of export;

(c) the specified name or brand name of the exported targeted substance; and

(d) the quantity and, if applicable, the strength per unit of the exported targeted substance.

Revocation or Suspension of an Export Permit

Revocation

47. (1) The Minister must revoke an export permit at the request of the holder or if the holder informs the Minister that the permit has been lost or stolen.

Other cases of revocation

(2) Subject to subsection (3), the Minister must revoke an export permit in accordance with subsection 10(1) if there exists a circumstance described in any of paragraphs 28(1)(a) to (d) with respect to dealer's licence under which the targeted substance would be exported.

Exceptions

(3) The Minister is not required to revoke an export permit for the circumstances set out in subsection (2) if the holder of the permit meets the conditions referred to in subsection 28(2).

Suspension without prior notice

(4) The Minister must suspend an export permit without prior notice if

(a) the permit holder's dealer's licence that applies to the targeted substance being exported has expired or has been suspended or revoked;

(b) it is necessary to protect security, public health or safety, including the risk of the targeted substance being diverted to an illicit market or use;

(c) the exportation is not in conformity with an import permit issued by a competent authority of the country of final destination; or

(d) the exportation would contravene the laws of the country of final destination or any country of transit or transshipment.

PART 2

PHARMACISTS

Permitted Activities

Application

48. This Part, other than section 57, does not apply to a pharmacist when practising in a hospital.

Authorization

49. A pharmacist may, in accordance with this Part, compound a targeted substance pursuant to a prescription.

Record of receipt from licensed dealer

50. If a pharmacist receives a targeted substance from a licensed dealer, a pharmacist in another pharmacy or a hospital, the pharmacist must keep a record of the following information:

- (a) the brand name of the targeted substance received or, if the targeted substance does not have a brand name, the specified name;
- (b) the quantity and strength per unit of the targeted substance received, the number of units per package and the number of packages;
- (c) the name and address of the licensed dealer, pharmacist or hospital that supplied it; and
- (d) the date on which it was received.

Prescription required

51. (1) In addition to the activities authorized under section 55, a pharmacist may, subject to section 52, sell, provide, send, deliver or transport a targeted substance to or for an individual or for the benefit of an animal if

- (a) the pharmacist sells or provides the substance in a container labelled in accordance with subsection (2);
- (b) the transaction is made pursuant to a prescription
 - (i) dated and signed by a practitioner,
 - (ii) provided verbally to the pharmacist by a practitioner, or
 - (iii) transferred to the pharmacist under subsection 54(1) in accordance with subsection 54(2);
- (c) the pharmacist has not transferred the prescription to another pharmacist; and
- (d) where the transaction has been provided verbally, the transaction is recorded by the pharmacist in accordance with subsection (3).

Labelling required

(2) A pharmacist who sells or provides a targeted substance to an individual must do so in a container that is labelled with the following information:

- (a) the name and address of the pharmacy or pharmacist;
- (b) the date of issuance of the prescription and the number given to it by the pharmacist;

- (c) the name of the individual or animal for whose benefit the targeted substance is sold or provided;
- (d) the name of the practitioner who issued the prescription;
- (e) the specified name or brand name of the targeted substance;
- (f) the quantity and, if applicable, the strength per unit of the targeted substance; and
- (g) the directions for use specified by the practitioner.

Record of verbal prescription

(3) A pharmacist who receives a verbal prescription for a targeted substance must, before filling it,

(a) record the following information:

- (i) the name and address of the individual or animal for whose benefit the prescription is provided,
- (ii) the date that the verbal prescription was provided,
- (iii) the specified name or brand name of the targeted substance, as specified in the prescription,
- (iv) the quantity and, if applicable, the strength per unit of the targeted substance,
- (v) the name of the recording pharmacist and the name of the practitioner who issued the prescription,
- (vi) the directions for use specified by the practitioner, and
- (vii) if the prescription is to be refilled, the number of times it may be refilled and, if specified, the interval between refills; and

(b) must keep a hard copy or create a written record of the prescription.

Refills

52. A pharmacist may only refill a prescription for a targeted substance if

- (a) the practitioner who prescribed it expressly directs that the prescription may be refilled and specifies the number of refills;
- (b) the pharmacist makes a record of each refill in accordance with section 53;
- (c) less than one year has elapsed since the day on which the prescription was issued by the practitioner;
- (d) at least one refill remains on the prescription; and
- (e) in the case where an interval between refills has been specified by the practitioner, it has expired.

Records

53. A pharmacist who fills or refills a prescription for a targeted substance must record the following information:

- (a) the date the prescription was filled or refilled;
- (b) the quantity of the targeted substance provided at the original filling and at each refill;
- (c) the pharmacist's name or initials; and

(d) the number assigned to the prescription.

Transfer of prescription

54. (1) A pharmacist may transfer a prescription for a targeted substance to another pharmacist, except a prescription that has already been transferred.

Additional information

(2) Before a pharmacist sells or provides a targeted substance to an individual under a prescription transferred under subsection (1), the pharmacist must

- (a) in the case of a verbal transfer, record the information required by subsection 51(3);
- (b) in the case of a written transfer, have obtained from the transferring pharmacist a copy of
 - (i) the prescription written by the practitioner, or
 - (ii) the record made in accordance with subsection 51(3) of the practitioner's verbal prescription; and
- (c) in all cases, record
 - (i) the name and address of the transferring pharmacist,
 - (ii) the number of authorized refills remaining and, if applicable, the specified interval between refills, and
 - (iii) the date of the last refill.

Records -- transferring pharmacist

(3) A pharmacist who transfers a prescription under subsection (1) must record the date of the transfer, the name of the pharmacist to whom the prescription was transferred, the name and address of the pharmacy where that pharmacist practises and, if applicable, the number of refills that are being transferred.

Activities without a prescription

55. (1) A pharmacist may sell, provide, send, deliver or transport a targeted substance without a prescription to any of the following persons on receipt of an order from that person that specifies the name and quantity of the targeted substance:

- (a) if the order is written, a licensed dealer who
 - (i) sold or provided the targeted substance, or
 - (ii) is licensed to destroy targeted substances, other than those that the licensed dealer produced, made, assembled, sold or provided;
- (b) subject to subsection (2),
 - (i) a practitioner,
 - (ii) another pharmacist, if the other pharmacist states that the targeted substance is required because of a delay or shortfall in an order for the targeted substance placed with a licensed dealer, or
 - (iii) a hospital, if the order is placed by a pharmacist practising in the hospital or by a practitioner who is authorized to order the targeted substance on behalf of the hospital;
- (c) the Minister, if the order is a written order signed on the Minister's behalf, or

(d) a person to whom an exemption with respect to the targeted substance has been granted under section 56 of the Act, if the order is a written order and is accompanied by a copy of the exemption.

Verbal orders

(2) In the circumstances set out in subparagraphs (1)(b)(i) to (iii), if the order is verbal, the pharmacist must record the following information:

- (a) the name of the pharmacist or practitioner placing the order;
- (b) the name and address of the establishment on whose behalf the order has been placed;
- (c) the date of the order;
- (d) the specified name or the brand name of the targeted substance ordered, as specified in the order;
- (e) the quantity and, if applicable, the strength per unit of the targeted substance; and
- (f) the name of the recording pharmacist.

Records

(3) A pharmacist who sells, provides, sends, delivers or transports a targeted substance without a prescription must keep a record of the following information:

- (a) the brand name of the targeted substance or, if the targeted substance does not have a brand name, the specified name;
- (b) the quantity and strength per unit of the targeted substance;
- (c) the name and address of the person referred to in subsection (1) to whom the targeted substance was sold, provided, sent, delivered or transported; and
- (d) the date of the transaction.

Copies

(4) The pharmacist must keep the written order or, if the order is verbal, must create a hard copy of the order.

General Obligations of Pharmacists

Change of location

56. A pharmacist who closes premises in which a targeted substance has been stored must, not later than 10 days after the closure, inform the Minister of the date of closure, the location to which the targeted substance was moved and the quantity of the targeted substance that was moved.

Renunciation of privileges

57. (1) A pharmacist who does not wish to receive or have possession of targeted substances may make a written request to the Minister to send to licensed dealers and pharmacies a notice, issued under section 79, that states that targeted substances must not be supplied to that pharmacist.

Prohibited actions

(2) A pharmacist must not, unless their pharmacy has received a retraction issued under section 80,

- (a) sell or provide a targeted substance to a pharmacist or practitioner named in a notice issued under section 79; or
- (b) fill a prescription or order for a targeted substance from a practitioner named in a notice issued under section 79.

PART 3

PRACTITIONERS

To patients only

58. A practitioner may, with respect to a targeted substance, prescribe it for or administer it to an individual or animal, or sell, provide, send, deliver or transport it to or for an individual or for the benefit of an animal, only if

- (a) the individual or animal is a patient that the practitioner is treating in their professional capacity; and
- (b) the targeted substance is required to treat the individual's or animal's medical condition.

Emergency supply

59. (1) A practitioner of medicine may store an emergency supply of targeted substances at a remote location where emergency medical treatment is not readily available or in an emergency medical service vehicle, if the practitioner has an agent at that location or in the vehicle who will control and administer the targeted substances on behalf of, and under the direction of, the practitioner.

Emergency use

(2) When aid is being provided to an individual in an emergency, the agent of the practitioner of medicine may administer a targeted substance from the emergency supply to the individual if

- (a) a practitioner of medicine has, by telephone or other means, directed the agent to administer the targeted substance; or
- (b) the agent follows written directives provided by the practitioner with respect to the administration of the targeted substance.

Records -- practitioner

60. (1) A practitioner must keep the following records:

- (a) the brand name of the targeted substance or, if the targeted substance does not have a brand name, the specified name, the quantity and strength per unit of any targeted substance received from a licensed dealer, pharmacist or hospital and the date on which it is received;
- (b) the name and address of the licensed dealer, pharmacist or hospital that sold or provided the targeted substance;
- (c) if a transaction involves a quantity of targeted substance that exceeds five times the usual daily dose for the substance, the disposition of the targeted substance and the date of its disposition; and
- (d) in the case of an emergency supply referred to in subsection 59(1), the name of the administering agent, the location of the emergency supply, the name, quantity and strength per unit of each targeted substance, the date of all transactions related to that emergency supply and the name of the individual to whom the targeted substance was administered.

Records -- agent

(2) In respect of the administration of a targeted substance from an emergency supply referred to in subsection 59(1), the agent of the practitioner must keep the following records:

- (a) the name, strength per unit and quantity of each targeted substance administered and the date on which it was administered;
- (b) the name of the individual to whom the targeted substance was administered; and
- (c) the name of the agent of the practitioner who administered the targeted substance.

Obligations -- agents

61. (1) An agent of a practitioner of medicine referred to in subsection 59(1) must

- (a) take reasonable steps to protect any targeted substance in their possession from loss and theft; and
- (b) inform the practitioner without delay of any loss or theft of a targeted substance.

Obligations -- practitioner of medicine

(2) A practitioner of medicine who is informed by their agent of loss or theft of a targeted substance must inform the Minister in accordance with section 7.

Request for renunciation

62. A practitioner who does not wish to receive or have possession of targeted substances may make a written request to the Minister to send to licensed dealers and pharmacies a notice issued under section 79 that states that

- (a) recipients of the notice must not sell or provide any targeted substance to that practitioner; and
- (b) pharmacists practising in the notified pharmacies must not fill a prescription or order for any targeted substance written by that practitioner.

PART 4
HOSPITALS

Authorization

63. (1) A hospital may, in accordance with this Part, sell, provide, administer, send, deliver or transport a targeted substance.

Ordering targeted substances

(2) No person may order a targeted substance on behalf of a hospital other than a pharmacist or practitioner practising in the hospital who is authorized by the person in charge of the hospital to order targeted substances for the hospital.

Provision or administration to a patient

64. The person in charge of a hospital must not permit a targeted substance to be sold, provided or administered to a patient or animal under treatment as an in-patient or an out-patient of the hospital except pursuant to a prescription or other authorization of a practitioner practising in the hospital.

Supply to non-patients

65. (1) A pharmacist practising in a hospital or an individual who is authorized by the person in charge of a hospital to fill orders for targeted substances on behalf of the hospital may, on receipt of an order specifying the name, quantity and, if applicable, strength per unit of a targeted substance from any of the following persons, sell or provide the targeted substance to that person without a prescription:

(a) subject to subsection (2),

(i) a licensed dealer who

(A) sold or provided the substance, or

(B) is licensed to destroy targeted substances other than those that the licensed dealer produced, made, assembled, sold or provided,

(ii) a practitioner, if the practitioner states that the substance is required because of a delay or shortfall in an order for the substance placed with a licensed dealer or pharmacist,

(iii) a pharmacist, if the pharmacist states that the substance is required because of a delay or shortfall in an order for the substance placed with a licensed dealer, or

(iv) another hospital, if the order is placed by a pharmacist practising in the other hospital or a practitioner who is authorized to order the targeted substance on behalf of the other hospital and the order states that the substance is required because of a delay or shortfall in an order placed with a licensed dealer or a pharmacist;

(b) the Minister, if the order is a written order signed on the Minister's behalf; and

(c) a person to whom an exemption with respect to the targeted substance has been granted under section 56 of the Act, if

(i) the person is an employee of or associated with the hospital, and

(ii) the order is a written order accompanied by a copy of the exemption.

Verbal orders

(2) In the circumstances set out in paragraph (1)(a), if the order is verbal, the pharmacist practising in the hospital or the individual who is authorized by the person in charge of the hospital to fill orders for the targeted substance on behalf of the hospital must, before filling the order, record the following information:

(a) the date on which the order was received;

(b) the name and address of the person placing the order;

(c) the brand name of the targeted substance or, if the targeted substance does not have a brand name, the specified name;

(d) the quantity of the targeted substance ordered; and

(e) their name.

Information

66. The person in charge of a hospital must record, or cause to be recorded, the following information:

(a) the brand name or, if the targeted substance does not have a brand name, the specified name, the quantity of any targeted substance received by the hospital and the date on which it was received;

(b) the name and address of the licensed dealer, pharmacist or other hospital that sold or provided the targeted substance;

(c) the disposition of the targeted substance and the date of its disposition; and

(d) the name and address of any out-patient to whom a targeted substance is sold or provided under section 64.

Closure

67. Where a hospital closes or the pharmacy department within a hospital is closed, in which a targeted substance has been stored, the person in charge of the hospital must, not later than 10 days after the closure, inform the Minister of the date of closure, the location to which the targeted substance was moved and the quantity of the targeted substance that was moved.

PART 5 INDIVIDUALS

Importation -- Canadian residents

68. (1) An individual who is a resident of Canada may, at the time of the individual's return to Canada from a foreign country, import a targeted substance that is in their possession at the time of entry if

(a) the substance has been obtained under a prescription and is labelled with the information set out in paragraphs 51(2)(a) to (g);

(b) the individual is importing the substance

(i) for their own use,

(ii) for the use of a person for whom the individual is responsible and who is travelling with them, or

(iii) for the use of an animal for which the individual is responsible and which is travelling with them;

(c) the substance is imported to meet the medical needs of the individual or animal for whose benefit it is prescribed;

(d) the substance is declared to a customs office at the port of entry into Canada at the time of import; and

(e) the quantity being imported does not exceed the lesser of

(i) a single course of treatment, and

(ii) a 90-day supply, based on the usual daily dose.

Importation -- foreign residents

(2) An individual who is a resident of a foreign country may, at the time that the individual enters Canada, import a targeted substance that is in their possession at the time of entry if

(a) the requirements set out in paragraphs (1)(a) to (d) are met; and

(b) the quantity imported is the least of

(i) the content of the container,

(ii) a 90-day supply, based on the usual daily dose, and

(iii) the usual daily dose multiplied by the number of days that the individual will stay in Canada.

Export

69. An individual may, at the time of their departure from Canada, export a targeted substance that is in their possession at the time of departure if

(a) the substance has been obtained under a prescription and is labelled with the information set out in paragraphs 51(2)(a) to (g);

(b) the individual is exporting the substance

(i) for their own use,

(ii) for the use of a person for whom the individual is responsible and who is travelling with them, or

(iii) for the use of an animal for which the individual is responsible and which is travelling with them;

(c) the substance is required to meet the medical needs of the individual or animal for whose benefit it is prescribed; and

(d) the quantity exported does not exceed the lesser of

(i) a single course of treatment, and

(ii) a 90-day supply, based on the usual daily dose.

PART 6

TEST KITS

Authorization

70. (1) A person may sell, provide, send, deliver, transport, import or export a test kit if

(a) a registration number has been issued for the test kit under subsections 72(1) or 75(2) and the number has not been cancelled under section 74;

(b) the test kit is labelled with

(i) the registration number, and

(ii) in the case of a test kit that is not subject to the labelling requirements of the *Medical Devices Regulations*,

(A) the name and address of the maker or assembler or, in the case where the test kit is made or assembled pursuant to a custom order, the name and address of the person for whom the test kit was custom made or assembled, and

(B) a brand name; and

(c) the test kit is sold, provided, sent, delivered, transported, imported or exported for a medical, laboratory, industrial, educational, law enforcement or research purpose.

Individual

(2) A person who does not hold a dealer's licence may possess a test kit that contains a targeted substance set out in Part 2 of Schedule 1 if the test kit is labelled with its registration number.

Application for a registration number

71. (1) To apply for a registration number, a person who makes or assembles a test kit that contains a targeted substance or, in the case where the test kit is made or assembled pursuant to a custom order, the person for whom the test kit was made or assembled must submit the following information to the Minister:

- (a) the brand name of the test kit;
- (b) the proposed use and a description of the design of the test kit;
- (c) a detailed description of the targeted substance contained in the test kit, including
 - (i) the specified name for the substance,
 - (ii) if the substance is a salt, the name of the salt, and
 - (iii) the quantity of the substance;
- (d) a detailed description of each other substance contained in the test kit, including
 - (i) the name of each substance,
 - (ii) if the substance is a salt, the name of the salt, and
 - (iii) the quantity of each substance; and
- (e) the directions for use of the test kit.

Attestation of signatory

(2) An application for the registration of a test kit must

- (a) be signed by an individual authorized by the applicant for that purpose; and
- (b) indicate that all the information submitted in support of the application is correct and complete to the best of the signatory's knowledge.

Issuance of a registration number

72. (1) Subject to subsection (2), the Minister must, after examining the information and documents required under sections 11 and 71, issue a registration number for the test kit to the applicant if the applicant demonstrates that the test kit is designed to be used solely for a medical, laboratory, industrial, educational, law enforcement or research purpose.

Refusal

(2) The Minister must refuse to issue a registration number if the Minister has reasonable grounds to believe that

- (a) the test kit poses a significant security, public health or safety hazard, including the risk of the targeted substance in the test kit being diverted to an illicit market or use, because
 - (i) the total amount of the targeted substance in the test kit is too high, or
 - (ii) the adulterating or denaturing agent in the test kit is not likely to prevent or deter consumption of the targeted substance in the test kit by a human or animal or the administration of that substance to a human or animal; or
- (b) the test kit is likely to be used for a purpose other than those set out in subsection (1).

Effect of the registration number

73. The requirement in subparagraph C.01.004(1)(b)(iv) of the *Food and Drug Regulations* that a symbol be displayed on the label of a targeted substance does not apply to a test kit that contains a targeted substance if a registration number has been issued under subsection 72(1) or 75(2) for that test kit and is displayed on the label.

Cancellation

74. (1) The Minister must cancel the registration number of a test kit if

(a) the Minister receives a notice from the holder of the registration number stating that it has ceased all activities referred to in section 70 with respect to the test kit;

(b) the test kit is a medical device and is no longer approved for sale in Canada under the *Medical Devices Regulations*; or

(c) there exists a reason set out in paragraph 72(2)(a).

Non-compulsory cancellation

(2) The Minister may cancel the registration number of a test kit if the Minister determines that the test kit is being used for a purpose other than a medical, laboratory, industrial, educational, law enforcement or research purpose and, after considering the nature and extent of that other purpose, concludes that it poses a significant security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use.

Effect of cancellation

(3) When a registration number issued for a test kit is cancelled, the cancelled registration number

(a) must not be displayed on the label of any test kit made or assembled after the cancellation; and

(b) in the case of a cancellation under paragraph (1)(a), must remain on the label of any existing test kit until all of the test kits with that registration number are disposed of.

Application for a new number

75. (1) If a registration number issued for a test kit has been cancelled under subsection 74(1) or (2), the maker or assembler of the test kit or, where the test kit is made or assembled pursuant to a custom order, the person for whom the test kit was custom made or assembled

(a) may, after a period of 90 days following the cancellation, apply to the Minister for the issuance of a new registration number; and

(b) must, in support of the application, provide the Minister with proof that the circumstance that gave rise to the cancellation has been corrected.

New number

(2) The Minister, after examining the application and supporting proof referred to in subsection (1), must issue a new registration number for the test kit unless there exists a circumstance set out in paragraph 74(1)(b) or (c) or subsection 74(2).

Notice to the Minister

76. The holder of a registration number for a test kit issued under subsection 72(1) or 75(2) must inform the Minister in writing, within 30 days after the event, if they have

(a) ceased all activities referred to in section 70 with respect to the test kit;

- (b) transferred the making or assembly of the test kit to another person;
- (c) increased the quantity of targeted substance in the test kit;
- (d) changed the brand name of the test kit;
- (e) altered in any manner the adulterating or denaturing agent in the test kit or changed the quantity of either agent in it; or
- (f) substituted a new adulterating or denaturing agent.

PART 7

TARGETED SUBSTANCES IN TRANSIT OR TRANSHIPMENT

Application

77. (1) If a targeted substance is being shipped from one country of export to another country of export by a route that requires it to be in transit through Canada or to be transhipped in Canada, the exporter in the country of export or an agent in Canada of that exporter must apply to the Minister for a permit for transit or transhipment by providing the following information:

- (a) the name, address and telephone number of the exporter in the country of export;
- (b) the name, address and telephone number of the person who will be responsible for the targeted substance while it is in Canada;
- (c) with respect to the targeted substance for which the permit is requested,
 - (i) its specified name,
 - (ii) if it is a salt, the name of the salt,
 - (iii) if applicable, its brand name,
 - (iv) the quantity,
 - (v) in the case of a raw material, its purity, and
 - (vi) if applicable, its anhydrous content;
- (d) the expected date of transit or transhipment in Canada;
- (e) the name of the Canadian port of entry and exit;
- (f) each mode of transportation that is to be used in Canada for the targeted substance; and
- (g) in the case of a transhipment, the address, if applicable, of every place in Canada at which the targeted substance will be stored during the transhipment and the expected duration of each storage.

Supporting documentation

- (2) An application referred to in subsection (1) must be accompanied by
- (a) a copy of the export permit issued by a competent authority in the country of export; and
 - (b) a copy of the import permit issued by a competent authority in the country of final destination.

Attestation of signatory

- (3) An application referred to in subsection (1) must
- (a) be signed by a person who is authorized for that purpose by the exporter, including an agent in Canada of that exporter; and

(b) state that all the information submitted in support of the application is correct and complete to the best of the signatory's knowledge.

Permit for transit or transshipment

78. (1) Subject to subsection (2), after examining the information and documents required under sections 11 and 77, the Minister must issue a permit for transit or transshipment that contains the following information:

- (a) the name, address and telephone number of the exporter in the country of export;
- (b) the name, address and telephone number of the person who is responsible for the targeted substance while it is in Canada;
- (c) the specified name, quantity, purity and strength per unit of the targeted substance;
- (d) the countries of export and final destination and the numbers and expiry dates of the export and import permits issued by a competent authority in each of those countries;
- (e) the expected date of the transit or transshipment in Canada;
- (f) the names of the Canadian ports of entry and exit;
- (g) each mode of transportation that is to be used for the targeted substance while in Canada;
- (h) in the case of a transshipment, the address, if applicable, of every place in Canada at which the targeted substance may be stored during the transshipment and the duration of each storage; and
- (i) the dates of issuance and expiry of the permit.

Refusal to issue a permit

(2) The Minister must refuse to issue a permit for transit or transshipment if the Minister has reasonable grounds to believe that

- (a) the issuance of the permit
 - (i) would not be in conformity with an international obligation,
 - (ii) would be in contravention of the Act, the regulations, another Act of Parliament, or a law of the country of export, of the country of final destination or of a country of transit or transshipment, or
 - (iii) could pose a significant security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use; or
- (b) the import permit issued by a competent authority in the country of final destination has expired or has been suspended or revoked.

PART 8

MINISTER

Notice to cease providing targeted substances

79. (1) In the circumstances set out in subsection (2), the Minister must issue a notice to the persons and authorities specified in subsection (3) advising them that

- (a) licensed dealers and pharmacists working in the notified pharmacies must not sell or provide any targeted substance to the pharmacist or practitioner named in the notice;
- (b) pharmacists working in the notified pharmacies must not fill a prescription or order for any targeted substance written by the practitioner named in the notice; or

(c) both paragraphs (a) and (b) apply with respect to the practitioner named in the notice.

Circumstances

(2) The notice must be issued if the pharmacist or practitioner named in the notice has

(a) made a request to the Minister in accordance with subsection 57(1) or section 62, as the case may be, to issue the notice;

(b) contravened a rule of conduct established by the licensing authority of the province in which the pharmacist or practitioner is practising and that licensing authority has requested the Minister in writing to issue the notice; or

(c) been found guilty in a court of law of a designated substance offence or of an offence under these Regulations.

Recipients

(3) The notice must be issued to

(a) all licensed dealers;

(b) all pharmacies within the province in which the pharmacist or practitioner named in the notice is registered and practising;

(c) the licensing authority of the province in which the pharmacist or practitioner named in the notice is registered or entitled to practise;

(d) any interested licensing authority in another province; and

(e) any pharmacies in an adjacent province in which a prescription or order from the pharmacist or practitioner named in the notice may be filled.

Other circumstances

(4) Subject to subsection (5), the Minister may issue the notice described in subsection (1) to the persons and authorities specified in subsection (3), if the Minister, on reasonable grounds, believes that the pharmacist or practitioner named in the notice

(a) has contravened a provision of the Act or the regulations;

(b) has, on more than one occasion, self-administered a targeted substance under a self-directed prescription or order or, in the absence of a prescription or order, contrary to accepted pharmaceutical, medical, dental or veterinary practice;

(c) has, on more than one occasion, prescribed, provided or administered a targeted substance to a spouse, parent or child, contrary to accepted pharmaceutical, medical, dental or veterinary practice; or

(d) is unable to account for a quantity of targeted substance for which the pharmacist or practitioner was responsible under these Regulations.

Measures before issuance

(5) In the circumstances described in subsection (4), the Minister must not issue the notice referred to in subsection (1) until the Minister has

(a) consulted with the licensing authority of the province in which the pharmacist or practitioner to whom the notice relates is registered or entitled to practise;

(b) given that pharmacist or practitioner an opportunity to present reasons why the notice should not be issued; and

(c) considered

(i) the compliance history of the pharmacist or practitioner in respect of the Act and the regulations made or continued under it, and

(ii) whether the actions of the pharmacist or practitioner pose a significant security, public health or safety hazard, including the risk of the targeted substance being diverted to an illicit market or use.

Retraction

80. The Minister must provide the licensed dealers, pharmacies and licensing authorities who were sent a notice under subsection 79(1) with a retraction of that notice if

(a) in the circumstance described in paragraph 79(2)(a), the requirements set out in subparagraphs (b)(i) and (ii) have been met and one year has elapsed since the notice was sent by the Minister; or

(b) in the circumstance described in any of paragraphs 79(2)(b) and (c) and (4)(a) to (d), the pharmacist or the practitioner named in the notice has

(i) requested in writing that a retraction of the notice be issued, and

(ii) provided a letter from the licensing authority of the province in which the pharmacist or practitioner is registered or entitled to practise in which the authority consents to the retraction of the notice.

Provision of information

81. The Minister may provide in writing any factual information about a pharmacist, a practitioner or a nurse that has been obtained under the Act or these Regulations to the licensing authority responsible for the registration or authorization of the person to practise their profession

(a) in the province in which the pharmacist, practitioner or nurse is registered or entitled to practise if

(i) the authority submits a written request that sets out the name and address of the pharmacist, practitioner or nurse, a description of the information being sought and a statement that the information is required for the purpose of assisting a lawful investigation by the authority, or

(ii) the Minister has reasonable grounds to believe that the pharmacist, practitioner or nurse has

(A) contravened a rule of conduct established by the authority,

(B) been found guilty in a court of law of a designated substance offence or of a contravention of these Regulations, or

(C) in the case of a pharmacist or practitioner, done any act that the Minister, on reasonable grounds, believes contravenes a provision of these Regulations; or

(b) in a province in which the pharmacist, practitioner or nurse is not registered or entitled to practise, if the authority submits to the Minister

(i) a written request for information that states

(A) the name and address of the pharmacist, practitioner or nurse, and

(B) a description of the information being sought, and

(ii) documentation that shows that the pharmacist, practitioner or nurse has applied to that authority to practise in that province.

PART 9
COMING INTO FORCE

Coming into force

82. (1) Subject to subsection (2), these Regulations come into force on September 1, 2000.

Exception

(2) Subparagraph 3(b)(ii), paragraphs 20(1)(h) and 21(f), subparagraph 21(i)(ii), paragraph 22(f), subparagraphs 25(3)(b)(ii) and 26(1)(a)(i) and section 73 come into force on September 1, 2001.

SCHEDULE 1

(Subsection 1(1), section 4 and subsections 15(1), 20(1) and 70(2))

PART 1

LIST OF CLASS 1 TARGETED SUBSTANCES

Item Name

1. Benzodiazepines, their salts and derivatives, including
 - (1) Alprazolam (8-chloro-1-methyl-6-phenyl-4H--s-triazolo[4,3-a][1,4]benzodiazepine)
 - (2) Bromazepam (7-bromo-1,3-dihydro-5-(2-pyridyl)--2H-1,4-benzodiazepin-2-one)
 - (3) Brotizolam (2-bromo-4-(o-chlorophenyl)-9-methyl-6H-thieno[3,2-f]-s-triazolo[4,3-a][1,4]diazepine)
 - (4) Camazepam (7-chloro-1,3-dihydro-3-(N,N-dimethylcarbamoyl)--1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one)
 - (5) Clordiazepoxide (7-chloro-2-(methylamino)-5--phenyl-3H-1,4-benzodiazepine-4-oxide)
 - (6) Clobazam (7-chloro-1-methyl-5-phenyl-1H-1,5--benzodiazepine-2,4(3H,5H)-dione)
 - (7) Clonazepam (5-(o-chlorophenyl)-1,3-dihydro-7--nitro-2H-1,4-benzodiazepin-2-one)
 - (8) Clorazepate (7-chloro-2,3-dihydro-2,2-dihydroxy--5-phenyl-1H-1,4-benzodiazepine-3-carboxylic acid)
 - (9) Cloxazolam (10-chloro-11b-(o-chlorophenyl)-2,-3,7,11b-tetrahydrooxazolo [3,2-d][1,4]benzodiazepin-6[5H]-one)
 - (10) Delorazepam (7-chloro-5-(o-chlorophenyl)-1,3-dihydro-2H-1,-4-benzodiazepin-2-one)
 - (11) Diazepam (7-chloro-1,3-dihydro-1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one)
 - (12) Estazolam (8-chloro-6-phenyl-4H-s-triazolo[4,3-a--[1,4]benzodiazepine)
 - (13) Ethyl Loflazepate (ethyl 7-chloro-5-(o-fluorophenyl)-2,3-dihydro-2-oxo-1H-1,-4-benzodiazepine-3-carboxylate)
 - (14) Fludiazepam (7-chloro-5-(o-fluorophenyl)-1,3-dihydro-1-methyl-2H-1,4-benzodiazepin-2-one)
 - (15) Flurazepam (7-chloro-1-[2-(diethylamino)ethyl]-5-(o-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one)
 - (16) Halazepam (7-chloro-1,3-dihydro-5-phenyl-1-(2,2,-2-trifluoroethyl)-2H-1,4-benzodiazepin-2-one)
 - (17) Haloxazolam (10-bromo-11b-(o-fluorophenyl)-2,3,7,11b-tetrahydro-oxazolo[3,2-d][1,4]benzodiazepin-6(5H)-one)

- (18) Ketazolam (11-chloro-8,12b-dihydro-2,8-dimethyl-12b-phenyl-4H-[1,3]-oxazino-[3,2-d][1,4]benzodiazepine-4,7(6H)-dione)
- (19) Loprazolam (6-(o-chlorophenyl)-2,4-dihydro-2-[(4--methyl-1-piperazinyl)methylene]-8-nitro-1H-imidazo[1,2-a][1,4]-benzodiazepin-1-one)
- (20) Lorazepam (7-chloro-5-(o-chlorophenyl)-1,3-dihydro-3-hydroxy-2H-1,4-benzodiazepin-2-one)
- (21) Lormetazepam (7-chloro-5-(o-chlorophenyl)-1,3-dihydro-3-hydroxy-1-methyl-2H-1,4-benzodiazepin-2-one)
- (22) Medazepam (7-chloro-2,3-dihydro-1-methyl-5-phenyl-1H-1,4-benzodiazepine)
- (23) Midazolam (8-chloro-6-(o-fluorophenyl)-1-methyl-4H-imidazo[1,5-a][1,4]benzodiazepine)
- (24) Nimetazepam (1,3-dihydro-1-methyl-7-nitro-5-phenyl-2H-1,4-benzodiazepin-2-one)
- (25) Nitrazepam (1,3-dihydro-7-nitro-5-phenyl-2H-1,4-benzodiazepin-2-one)
- (26) Nordazepam (7-chloro-1,3-dihydro-5-phenyl--2H-1,4-benzodiazepin-2-one)
- (27) Oxazepam (7-chloro-1,3-dihydro-3-hydroxy-5-phenyl-2H-1,4-benzodiazepin-2-one)
- (28) Oxazolam (10-chloro-2,3,7,11b-tetrahydro-2-methyl-11b-phenyloxazolo[3,2-d][1,4]benzodiazepin-6(5H)-one)
- (29) Pinazepam (7-chloro-1,3-dihydro-5-phenyl-1-(2-propynyl)-2H-1,-4-benzodiazepin-2-one)
- (30) Prazepam (7-chloro-1-(cyclopropylmethyl)-1,3-di-hydro-5-phenyl-2H-1,4-benzodiazepin-2-one)
- (31) Quazepam (7-chloro-5-(o-fluorophenyl)-1,3-dihydro-1-(2,2,2-trifluoroethyl)-2H-1,4-benzodiazepine-2-thione)
- (32) Temazepam (7-chloro-1,3-dihydro-3-hydroxy-1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one)
- (33) Tetrazepam (7-chloro-5-(cyclohexen-1-yl)-1,3-di-hydro-1-methyl-2H-1,4-benzodiazepin-2-one)
- (34) Triazolam (8-chloro-6-(o-chlorophenyl)-1-methyl-4H-s-triazolo-[4,3-a][1,4]benzodiazepine)
but not including
- (35) Clozapine (8-chloro-11-(4-methyl-1-piperazinyl)-5H-dibenzo[b,e][1,4]diazepine) and any salt thereof
- (36) Flunitrazepam (5-(o-fluorophenyl)-1,3-dihydro-1-methyl-7-nitro-2H-1,4-benzodiazepin-2-one) and any salts or derivatives thereof
- (37) Olanzapine (2-methyl-4-(4-methyl-1-piperazinyl)-10H-thieno[2,3-b][1,5]benzodiazepine) and its salts
2. Clotiazepam (5-(o-chlorophenyl)-7-ethyl-1,3-dihydro-1-methyl-2-H-thieno[2,3-e]-1,4-diazepin-2-one) and any salt thereof
 3. Ethchlorvynol (ethyl-2-chlorovinyl ethynyl carbinol)
 4. Ethinamate (1-ethynylcyclohexanol carbamate)
 5. Fencamfamin (d,l-N-ethyl-3-phenylbicyclo[2,2,1]-heptan-2-amine) and any salt thereof
 6. Fenproporex (d,l-3-[(?-methylphenethyl)amino]propionitrile) and any salt thereof

7. Mazindol (5-(p-chlorophenyl)-2,5-dihydro-3H-imidazo[2,1-a]isoindol-5-ol)
8. Mefenorex (d,l-N-(3-chloropropyl)-?-methylbenzene-ethanamine) and any salt thereof
9. Meprobamate (2-methyl-2-propyl-1,3-propanedioldicarbamate)
10. Methypylon (3,3-diethyl-5-methyl-2,4-piperidinedione)
11. Pipradol (?,?,-diphenyl-2-piperidinemethanol) and any salt thereof
12. Zolpidem (N,N,6-trimethyl-2-(4-methylphenyl)imidazo[1,2-a]pyridine-3-acetamide) and any salt thereof

PART 2

LIST OF CLASS 2 TARGETED SUBSTANCES

Item Name

1. Flunitrazepam (5-(o-fluorophenyl)-1,3-dihydro-1-methyl-7-nitro-2H-1,4-benzodiazepin-2-one) and any salts or derivatives thereof

SOR/2003-38, s. 3.

SCHEDULE 2

(Subsection 1(1))

SPECIFIED NAMES OF TARGETED SUBSTANCES

Item	Column 1 Specified Name	Column 2 Chemical Name
1.	Alprazolam	8-chloro-1-methyl-6-phenyl-4H--s-triazolo[4,3-a][1,4]benzodiazepine
2.	Bromazepam	7-bromo-1,3-dihydro-5-(2-pyridyl)--2H-1,4-benzodiazepin-2-one
3.	Brotizolam	2-bromo-4-(o-chlorophenyl)-9-methyl-6H-thieno[3,2-f]-s-triazolo[4,3-a][1,4]diazepine
4.	Camazepam	7-chloro-1,3-dihydro-3-(N,N-dimethylcarbamoyl)--1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one
5.	Chlordiazepoxide	7-chloro-2-(methylamino)-5--phenyl-3H-1,4-benzodiazepine-4-oxide
6.	Clobazam	7-chloro-1-methyl-5-phenyl-1H-1,5--benzodiazepine-2,4(3H,5H)-dione
7.	Clonazepam	5-(o-chlorophenyl)-1,3-dihydro-7--nitro-2H-1,4-benzodiazepin-2-one
8.	Clorazepate	7-chloro-2,3-dihydro-2,2-dihydroxy-5-phenyl-1H-1,4-benzodiazepine-3-carboxylic acid
9.	Cloxazolam	10-chloro-11b-(o-chlorophenyl)-2,-3,7,11b-tetrahydrooxazolo[3,2-d][1,4]benzodiazepin-6[5H]-one
10.	Delorazepam	7-chloro-5-(o-chlorophenyl)-1,3-dihydro-2H-1,-4-benzodiazepin-2-one
11.	Diazepam	7-chloro-1,3-dihydro-1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one
12.	Estazolam	8-chloro-6-phenyl-4H-s-triazolo[4,3-a]-[1,4]benzodiazepine
13.	Ethyl Loflazepate	ethyl 7-chloro-5-(o-fluorophenyl)-2,3-dihydro-2-oxo-1H-1,-4-benzodiazepine-3-carboxylate
14.	Fludiazepam	7-chloro-5-(o-fluorophenyl)-1,3-di-hydro-1-methyl-2H-1,4-benzodiazepin-2-one
15.	Flurazepam	7-chloro-1-[2-(diethylamino)ethyl]-5-(o-fluorophenyl)-1,3-dihydro-2H-

		1,4-benzodiazepin-2-one
16.	Halazepam	7-chloro-1,3-dihydro-5-phenyl-1-(2,2,2-trifluoroethyl)-2H-1,4-benzodiazepin-2-one
17.	Haloxazolam	10-bromo-11b-(o-fluorophenyl)-2,3,7,11b-tetrahydro-oxazolo[3,2-d][1,4]benzodiazepin-6(5H)-one
18.	Ketazolam	11-chloro-8,12b-dihydro-2,8-dimethyl-12b-phenyl-4H-[1,3]-oxazino[3,2-d][1,4]benzodiazepine-4,7(6H)-dione
19.	Loprazolam	6-(o-chlorophenyl)-2,4-dihydro-2-[(4--methyl-1-piperazinyl)methylene]-8-nitro-1H-imidazo[1,2-a][1,4]-benzodiazepin-1-one
20.	Lorazepam	7-chloro-5-(o-chlorophenyl)-1,3-dihydro-3-hydroxy-2H-1,4-benzodiazepin-2-one
21.	Lormetazepam	7-chloro-5-(o-chlorophenyl)-1,3-dihydro-3-hydroxy-1-methyl-2H-1,4-benzodiazepin-2-one
22.	Medazepam	7-chloro-2,3-dihydro-1-methyl-5-phenyl-1H-1,4-benzodiazepine
23.	Midazolam	8-chloro-6-(o-fluorophenyl)-1-methyl-4H-imidazo[1,5-a][1,4]benzodiazepine
24.	Nimetazepam	1,3-dihydro-1-methyl-7-nitro-5-phenyl-2H-1,4-benzodiazepin-2-one
25.	Nitrazepam	1,3-dihydro-7-nitro-5-phenyl-2H-1,4-benzodiazepin-2-one
26.	Nordazepam	7-chloro-1,3-dihydro-5-phenyl-2H-1,4-benzodiazepin-2-one
27.	Oxazepam	7-chloro-1,3-dihydro-3-hydroxy-5-phenyl-2H-1,4-benzodiazepin-2-one
28.	Oxazolam	10-chloro-2,3,7,11b-tetrahydro-2-methyl-11b-phenyloxazolo[3,2-d][1,4]benzodiazepin-6(5H)-one
29.	Pinazepam	7-chloro-1,3-dihydro-5-phenyl-1-(2-propynyl)-2H-1,4-benzodiazepin-2-one
30.	Prazepam	7-chloro-1-(cyclopropylmethyl)-1,3-dihydro-5-phenyl-2H-1,4-benzodiazepin-2-one
31.	Quazepam	7-chloro-5-(o-fluorophenyl)-1,3-dihydro-1-(2,2,2-trifluoroethyl)-2H-1,4-benzodiazepine-2-thione
32.	Temazepam	7-chloro-1,3-dihydro-3-hydroxy-1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one
33.	Tetrazepam	7-chloro-5-(cyclohexen-1-yl)-1,3-dihydro-1-methyl-2H-1,4-benzodiazepin-2-one
34.	Triazolam	8-chloro-6-(o-chlorophenyl)-1-methyl-4H-s-triazolo-[4,3-a][1,4]benzodiazepine
35.	Clotiazepam	5-(o-chlorophenyl)-7-ethyl-1,3-dihydro-1-methyl-2-H-thieno[2,3-e]-1,4-diazepin-2-one
36.	Ethchlorvynol	ethyl-2-chlorovinyl ethynyl carbinol
37.	Ethinamate	1-ethynylcyclohexanol carbamate
38.	Fencamfamin	d,1-N-ethyl-3-phenylbicyclo[2,2,1]-heptan-2-amine
39.	Fenproporex	d,1-3-[(?methylphenethyl)amino]propionitrile
40.	Flunitrazepam	3(5-(o-fluorophenyl)-1,3-dihydro-1-methyl-7-nitro-2H-1,4-

	benzodiazepin-2-one
41. Mazindol	5-(p-chlorophenyl)-2,5-dihydro-3H-imidazo[2,1-a]isoindol-5-ol
42. Mefenorex	d,1-N-(3-chloropropyl)-?-methylbenzene-ethanamine
43. Meprobamate	2-methyl-2-propyl-1,3-propanedioldicarbamate
44. Methypylon	3,3-diethyl-5-methyl-2,4-piperidinedione
45. Pipradol	?,?-diphenyl-2-piperidinemethanol
46. Zolpidem	N,N,6-trimethyl-2-(4-methylphenyl)imidazo[1,2-a]pyridine-3-acetamide

SOR/2003-38, s. 4.

E/NL.2004/28

SOR/2001-227

Registration 14 June, 2001

CONTROLLED DRUGS AND SUBSTANCES ACT

MARIHUANA MEDICAL ACCESS REGULATIONS

P.C. 2001-1146 14 June, 2001

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,¹ hereby makes the annexed *Marihuana Medical Access Regulations*.

MARIHUANA MEDICAL ACCESS REGULATIONS

INTERPRETATION

1. (1) The following definitions apply in these Regulations.

"Act" means the *Controlled Drugs and Substances Act*.²

"adverse drug reaction" means a noxious and unintended response to a drug that occurs at doses normally used or tested for the diagnosis, treatment or prevention of a medical condition or the modification of an organic function.

"authorization to possess" means an authorization to possess dried marihuana issued under section 11.

"category 1 symptom" means a symptom that is associated with a terminal illness or its medical treatment.

"category 2 symptom" means a symptom, other than a category 1 symptom, that is set out in column 2 of the schedule and that is associated with a medical condition set out in column 1 or its medical treatment.

"category 3 symptom" means a symptom, other than a category 1 or 2 symptom, that is associated with a medical condition or its medical treatment.

"conventional treatment" means, in respect of a symptom, a medical or surgical treatment that is generally accepted by the Canadian medical community as a treatment for the symptom.

"designated drug offence" means

- (a) an offence against section 39, 44.2, 44.3, 48, 50.2 or 50.3 of the *Food and Drugs Act*,³ as those provisions read immediately before May 14, 1997;
- (b) an offence against section 4, 5, 6, 19.1 or 19.2 of the *Narcotic Control Act*, as those provisions read immediately before May 14, 1997;

¹ Original note: S.C.1996, c.19

² Note by the Secretariat: E/NL.2004/21

³ Note by the Secretariat: E/NL.2004/17

- (c) an offence under Part I of the Act, except subsection 4(1); or
- (d) a conspiracy or an attempt to commit, being an accessory after the fact in relation to or any counselling in relation to an offence referred to in any of paragraphs (a) to (c).

"designated marihuana offence" means

- (a) an offence, in respect of marihuana, against section 5 of the Act, or against section 6 of the Act except with respect to importation; or
- (b) a conspiracy or an attempt to commit or being an accessory after the fact in relation to or any counselling in relation to an offence referred to in paragraph (a).

"designated person" means the person designated, in an application made under section 37, to produce marihuana for the applicant.

"designated-person production licence" means a licence issued under section 40.

"dried marihuana" means harvested marihuana that has been subjected to any drying process.

"licence to produce" means either a personal-use production licence or a designated-person production licence.

"marihuana" means the substance referred to as "Cannabis (marihuana)" in subitem 1(2) of Schedule II to the Act.

"medical practitioner" means a person who is authorized under the laws of a province to practise medicine in that province and who is not named in a notice given under section 58 or 59 of the *Narcotic Control Regulations*.

"medical purpose" means the purpose of mitigating a person's category 1, 2 or 3 symptom identified in an application for an authorization to possess.

"personal-use production licence" means a licence issued under section 29.

"production area" means the place where the production of marihuana is conducted, that is

- (a) entirely indoors;
- (b) entirely outdoors; or
- (c) partly indoors and partly outdoors but without any overlapping period between the two types of production.

"specialist" means a medical practitioner who is recognized as a specialist by the medical licensing authority of the province in which the practitioner is authorized to practise medicine.

"terminal illness" means a medical condition for which the prognosis is death within 12 months.

(2) For the purpose of sections 28 and 53, a site for the production of marihuana is considered to be adjacent to a place if the boundary of the land on which the site is located has at least one point in common with the boundary of the land on which the place is located.

PART 1

AUTHORIZATION TO POSSESS

Authorized Activity

2. The holder of an authorization to possess is authorized to possess dried marihuana, in accordance with the authorization, for the medical purpose of the holder.

Eligibility for Authorization to Possess

3. A person is eligible to be issued an authorization to possess only if the person is an individual ordinarily resident in Canada.

Application for Authorization to Possess

4. (1) A person seeking an authorization to possess dried marihuana for a medical purpose shall submit an application to the Minister.

(2) An application under subsection (1) shall contain

- (a) a declaration of the applicant;
- (b) a medical declaration that is made
 - (i) in the case of an application based on a category 1 symptom, by the medical practitioner of the applicant, or
 - (ii) in the case of an application based on a category 2 or 3 symptom, by a specialist; and
- (c) two copies of a current photograph of the applicant. SOR/2003-387, s. 1.

Applicant's Declaration

5. (1) The declaration of the applicant under paragraph 4(2)(a) must indicate

- (a) the applicant's name, date of birth and gender;
- (b) the full address of the place where the applicant ordinarily resides as well as the applicant's telephone number and, if applicable, facsimile transmission number and e-mail address;
- (c) the mailing address of the place referred to in paragraph (b), if different;
- (d) if the place referred to in paragraph (b) is an establishment that is not a private residence, the type and name of the establishment;
- (e) that the authorization is sought in respect of marihuana to be
 - (i) produced by the applicant or a designated person, in which case the designated person must be named, or
 - (ii) obtained from a medical practitioner under section 70 or obtained under section 70.1 from a licensed dealer producing marihuana under contract with Her Majesty in right of Canada;
- (f) that the applicant is aware that no notice of compliance has been issued under the *Food and Drug Regulations* concerning the safety and effectiveness of marihuana as a drug and that the applicant understands the significance of that fact; and
- (g) that the applicant has discussed the risks of using marihuana with the medical practitioner providing the medical declaration under paragraph 4(2)(b), and consents to using it for the recommended medical purpose.

(2) The declaration must be dated and signed by the applicant attesting that the information contained in it is correct and complete. SOR/2003-387, s. 2.

Medical Declarations

6. (1) The medical declaration under paragraph 4(2)(b) must indicate, in all cases
 - (a) the medical practitioner's or specialist's name, business address and telephone number, provincial medical licence number and, if applicable, facsimile transmission number and e-mail address;
 - (b) the applicant's medical condition, the symptom that is associated with that condition or its treatment and that is the basis for the application and whether the symptom is a category 1, 2 or 3 symptom;
 - (c) the daily dosage of dried marihuana, in grams, and the form and route of administration, recommended for the applicant; and
 - (d) the period for which the use of marihuana is recommended, if less than 12 months.
- (2) In the case of a category 1 symptom, the medical declaration must also indicate that
 - (a) the applicant suffers from a terminal illness;
 - (b) all conventional treatments for the symptom have been tried, or have at least been considered;
 - (c) the recommended use of marihuana would mitigate the symptom;
 - (d) the benefits from the applicant's recommended use of marihuana would outweigh any risks associated with that use; and
 - (e) the medical practitioner is aware that no notice of compliance has been issued under the *Food and Drug Regulations* concerning the safety and effectiveness of marihuana as a drug.
- (3) In the case of a category 2 symptom, the medical declaration must also indicate that
 - (a) the specialist practices in an area of medicine, to be named by the specialist in the declaration, that is relevant to the treatment of the applicant's medical condition;
 - (b) all conventional treatments for the symptom have been tried, or have at least been considered, and that each of them is medically inappropriate because
 - (i) the treatment was ineffective,
 - (ii) the applicant has experienced an allergic reaction to the drug used as a treatment, or there is a risk that the applicant would experience cross-sensitivity to a drug of that class,
 - (iii) the applicant has experienced an adverse drug reaction to the drug used as a treatment, or there is a risk that the applicant would experience an adverse drug reaction based on a previous adverse drug reaction to a drug of the same class,
 - (iv) the drug used as a treatment has resulted in an undesirable interaction with another medication being used by the applicant, or there is a risk that this would occur,
 - (v) the drug used as a treatment is contra-indicated, or

- (vi) the drug under consideration as a treatment has a similar chemical structure and pharmacological activity to a drug that has been ineffective for the applicant;
 - (c) the recommended use of marihuana would mitigate the symptom;
 - (d) the benefits from the applicant's recommended use of marihuana would outweigh any risks associated with that use, including risks associated with the long-term use of marihuana; and
 - (e) the specialist is aware that no notice of compliance has been issued under the *Food and Drug Regulations* concerning the safety and effectiveness of marihuana as a drug.
- (4) In the case of a category 3 symptom, the medical declaration must also indicate
- (a) the matters referred to in subsection (3); and
 - (b) all conventional treatments that have been tried or considered for the symptom and the reasons, from among those mentioned in paragraph (3)(b), why the specialist considers that those treatments are medically inappropriate.

7. [Repealed, SOR/2003-387, s. 3]

8. A medical declaration under section 6 must be dated and signed by the medical practitioner or specialist making it and must attest that the information contained in the declaration is correct and complete. SOR/2003-387, s. 4.

Dosage In Excess of 5 Grams

9. If the daily dosage recommended under paragraph 6(1)(c) is more than five grams, the medical practitioner or specialist providing the medical declaration under paragraph 4(2)(b) must also indicate that

- (a) the risks associated with an elevated daily dosage of marihuana have been considered, including risks with respect to the effect on the applicant's cardiovascular, pulmonary and immune systems and psychomotor performance, as well as potential drug dependency; and
- (b) the benefits from the applicant's use of marihuana according to the recommended daily dosage would outweigh the risks associated with that dosage, including risks associated with the long-term use of marihuana.

Photograph

10. The photograph required under paragraph 4(2)(c) must clearly identify the applicant and must

- (a) show a full front-view of the applicant's head and shoulders against a plain contrasting background;
- (b) have dimensions of at least 43 mm × 54 mm (1 11/16 inches × 2 1/8 inches) and not more than 50 mm × 70 mm (2 inches × 2 3/4 inches), and has a view of the applicant's head that is at least 30 mm (1.375 inches) in length;
- (c) show the applicant's face unobscured by sunglasses or any other object; and
- (d) be certified, on the reverse side, by a medical practitioner treating the applicant, to be an accurate representation of the applicant. SOR/2003-387, s. 5.

Issuance of Authorization to Possess

11. (1) Subject to section 12, if the requirements of sections 4 to 10 are met, the Minister shall issue to the applicant an authorization to possess for the medical purpose mentioned in the application, and shall provide notice of the authorization to the medical practitioner or specialist who made the medical declaration under paragraph 4(2)(b).

(2) The authorization shall indicate

- (a) the name, date of birth and gender of the holder of the authorization;
- (b) the full address of the place where the holder ordinarily resides;
- (c) the authorization number;
- (d) the name and category of the symptom;
- (e) the medical condition, or its treatment, with which the symptom is associated;
- (f) the maximum quantity of dried marihuana, in grams, that the holder may possess at any time;
- (g) the date of issue; and
- (h) the date of expiry.

(3) The maximum quantity of dried marihuana referred to in paragraph (2)(f) or resulting from an amendment under subsection 20(1) or 22(3) is the amount determined according to the following formula:

$$A \times 30$$

where A is the daily dosage of dried marihuana, in grams, recommended for the holder under paragraph 6(1)(c), 19(1)(c) or 22(2)(b), whichever applies.

Grounds for Refusal

12. (1) The Minister shall refuse to issue an authorization to possess if

- (a) the applicant is not eligible under section 3;
- (b) any information, statement or other item included in the application is false or misleading; or
- (c) the application involves a category 3 symptom and either all conventional treatments have not been tried or considered or they are considered to be medically inappropriate for any reason not mentioned in paragraph 6(3)(b);
- (d) [Repealed, SOR/2003-387, s. 6]

(2) If the Minister proposes to refuse to issue an authorization to possess, the Minister shall

- (a) notify the applicant in writing of the reason for the proposed refusal; and
- (b) give the applicant an opportunity to be heard. SOR/2003-387, s. 6.

Expiry of Authorization

13. An authorization to possess expires 12 months after its date of issue or, if a shorter period is specified in the application for the authorization under paragraph 6(1)(d), at the end of that period.

Renewal of Authorization to Possess

14. (1) An application to renew an authorization to possess shall be made to the Minister by the holder of the authorization and must include

- (a) the authorization number; and
- (b) the material required under sections 4 to 10.

(2) For the purpose of paragraph (1)(b), a photograph referred to in paragraph 4(2)(c) is required only with every second renewal application. SOR/2003-387, s. 7.

15. If an authorization to possess for a category 1 symptom has expired and, within 12 months after the expiry, a new application with respect to the category 1 symptom is made by the person who was the holder of the expired authorization, the new application is considered to be an application to renew the expired authorization.

16. An authorization to possess for a category 1 symptom may be renewed only once for that symptom; however, an application for an authorization to possess may be made for that symptom as a category 2 or 3 symptom, whichever applies.

17. Subject to section 18, if an application complies with section 14, the Minister shall renew the authorization to possess for the medical purpose mentioned in the application.

18. The Minister shall refuse to renew an authorization to possess

- (a) for any reason referred to in section 12; or
- (b) in the case of an authorization to possess for a category 1 symptom, if the authorization has already been renewed for that symptom.

Amendment of Authorization to Possess

19. (1) An application to amend an authorization to possess shall be made to the Minister by the holder of the authorization when a change occurs with respect to

- (a) the symptom mentioned in the authorization;
- (b) the medical condition, or its treatment, with which the symptom is associated; or
- (c) the recommended daily dosage of dried marihuana, if the new dosage is in excess of five grams.

(2) The application must include

- (a) the authorization number;
- (b) the requested amendment and supporting reasons; and
- (c) the material required under sections 4 to 10.

20. (1) Subject to section 21, if an application complies with section 19, the Minister shall allow the amendment.

(2) If the authorization to possess is amended under subsection (1) with respect to the recommended dosage of dried marihuana, the Minister shall, if applicable, amend the licence to produce that was issued on the basis of the authorization to reflect the change in the maximum number of marihuana plants that the holder may produce and the maximum quantity of dried marihuana that the holder may keep.

21. The Minister shall refuse to amend an authorization to possess for any reason referred to in section 12.

Notice of Change of Information

22. (1) The holder of an authorization to possess shall, within 10 days after the occurrence, notify the Minister in writing of a change in

- (a) the holder's name;
- (b) the holder's address of ordinary residence and mailing address, if different; or
- (c) the daily dosage of dried marihuana recommended under paragraph 6(1)(c), if the new dosage is not in excess of five grams.

(2) The notice of change must be accompanied

- (a) in the case of a change under paragraph (1)(a), by proof of the change;
- (b) in the case of a change under paragraph (1)(c), by a statement, dated and signed by the medical practitioner or specialist of the holder of the authorization, certifying the new daily dosage recommended for the holder; and
- (c) if a designated-person production licence has been issued on the basis of the authorization, by a statement indicating the name of the designated person who is the holder of the licence.

(3) On receiving a notice that complies with subsection (2), the Minister shall amend the authorization to reflect the change stated in the notice.

(4) If the authorization to possess is amended under subsection (3) with respect to the name or address of the holder of the authorization, the Minister shall, if applicable, amend accordingly the licence to produce that was issued on the basis of the authorization.

(5) If the authorization to possess is amended under subsection (3) with respect to the recommended dosage of dried marihuana, the Minister shall, if applicable, amend the licence to produce that was issued on the basis of the authorization to reflect the change in the maximum number of marihuana plants that the holder may produce and the maximum quantity of dried marihuana that the holder may keep.

Providing Assistance to Holder

23. While in the presence of the holder of an authorization to possess and providing assistance in the administration of the daily dosage of marihuana to the holder, the person providing the assistance may, for the purpose of providing the assistance, possess a quantity of dried marihuana not exceeding the recommended daily dosage for the holder.

PART 2

LICENCE TO PRODUCE

Personal-use Production Licence

Authorized Activities

24. The holder of a personal-use production licence is authorized to produce and keep marihuana, in accordance with the licence, for the medical purpose of the holder.

Eligibility for Licence

25. (1) Subject to subsection (2), a person is eligible to be issued a personal-use production licence only if the person is an individual ordinarily resident in Canada who has reached 18 years of age.

(2) If a personal-use production licence is revoked under paragraph 63(2)(b), the person who was the holder of the licence is ineligible to be issued another personal-use production licence during the period of 10 years after the revocation,

Priority of Application for Authorization

26. (1) An application for a personal-use production licence shall be considered only if it is made by a person who

- (a) is the holder of an authorization to possess on the basis of which the licence is applied for; or
- (b) is not the holder of an authorization to possess but either has applied for an authorization to possess, or is applying for an authorization to possess concurrently with the licence application.

(2) If paragraph (1)(b) applies, the Minister must grant or refuse the application for an authorization before considering the licence application.

Application for Licence

27. (1) A person mentioned in subsection 26(1) who is seeking a personal-use production licence shall submit an application to the Minister.

(2) The application must include

- (a) a declaration of the applicant; and
- (b) if the proposed production site is not the ordinary place of residence of the applicant and is not owned by the applicant, a declaration made by the owner of the site consenting to the production of marihuana at the site.

(3) The application may not be made jointly with another person.

Applicant's Declaration

28. (1) The declaration of the applicant under paragraph 27(2)(a) must indicate

- (a) the applicant's name, date of birth and gender;
- (b) the full address of the place where the applicant ordinarily resides as well as the applicant's telephone number and, if applicable, facsimile transmission number and e-mail address;
- (c) the mailing address of the place referred to in paragraph (b), if different;
- (d) if the applicant is the holder of an authorization to possess, the number of the authorization;
- (e) the full address of the site where the proposed production of marihuana is to be conducted;
- (f) the proposed production area;

- (g) if the proposed production area involves outdoor production entirely or partly indoor and partly outdoor production, that the production site is not adjacent to a school, public playground, day care facility or other public place frequented mainly by persons under 18 years of age;
- (h) that the dried marihuana will be kept indoors and indicating whether it is proposed to keep it at
 - (i) the proposed production site, or
 - (ii) the ordinary place of residence of the applicant, if different; and
 - (i) a description of the security measures that will be implemented at the proposed production site and the proposed site where dried marihuana will be kept.

(2) The declaration must be dated and signed by the applicant and attest that the information contained in it is correct and complete.

Issuance of Licence

29. (1) Subject to section 32, if the requirements of sections 27 and 28 are met, the Minister shall issue a personal-use production licence to the applicant.

(2) The licence shall indicate

- (a) the name, date of birth and gender of the holder of the licence;
- (b) the full address of the place where the holder ordinarily resides;
- (c) the licence number;
- (d) the full address of the site where the production of marihuana is authorized;
- (e) the authorized production area;
- (f) the maximum number of marihuana plants that may be under production at the production site at any time;
- (g) the full address of the site where the dried marihuana may be kept;
- (h) the maximum quantity of dried marihuana, in grams, that may be kept at the site referred to in paragraph (g) at any time;
- (i) the date of issue; and
- (j) the date of expiry.

Maximum Number of Plants

30. (1) In the formulas in subsection (2),

- (a) "A" is the daily dosage of dried marihuana, in grams, recommended for the applicant under paragraph 6(1)(c), 19(1)(c) or 22(2)(b), whichever applies;
- (b) "C" is a constant equal to 1, representing the growth cycle of a marihuana plant from seeding to harvesting; and
- (c) "D" is the maximum number of marihuana plants referred to in subsections 20(2) and 22(5) and paragraphs 29(2)(f) and 40(2)(g).

(2) The maximum number of marihuana plants referred to in paragraph (1)(c) is determined according to whichever of the following formulas applies:

- (a) if the production area is entirely indoors,
$$D = [(A \times 365) \div (B \times 3C)] \times 1.2$$
where B is 30 grams, being the expected yield of dried marihuana per plant,
- (b) if the production area is entirely outdoors,
$$D = [(A \times 365) \div (B \times C)] \times 1.3$$
where B is 250 grams, being the expected yield of dried marihuana per plant;
and
- (c) if the production area is partly indoors and partly outdoors,
(i) for the indoor period
$$D = [(A \times 182.5) \div (B \times 2C)] \times 1.2$$
where B is 30 grams, being the expected yield of dried marihuana per plant, and
(ii) for the outdoor period
$$D = [(A \times 182.5) \div (B \times C)] \times 1.3$$
where B is 250 grams, being the expected yield of dried marihuana per plant.

(3) If paragraph (2)(c) applies, the maximum number of marihuana plants for both periods of production shall be mentioned in the licence to produce.

(4) If the number determined for D is not a whole number, it shall be rounded to the next-highest whole number.

Maximum Quantity of Dried Marihuana in Storage

31. (1) In the formula in this subsection (2),
- (a) "D" is,
- (i) if the production area is entirely indoors or outdoors, the maximum number of marihuana plants that the holder of the licence to produce is authorized to produce, calculated under paragraphs 30(2)(a) or (b), whichever applies,
- (ii) if the production area is partly indoors and partly outdoors, the maximum number of marihuana plants that the holder of the licence to produce is authorized to produce, calculated under subparagraph 30(2)(c)(ii); and
- (b) "E" is the maximum quantity of dried marihuana mentioned in paragraphs 20(2) and 22(5) and in paragraphs 29(2)(h) and 40(2)(i).

(2) The maximum quantity of dried marihuana referred to in paragraph (1)(b) is determined according to whichever of the following formulas applies:

- (a) if the production area is entirely indoors,
$$E = D \times B \times 1.5$$
where B is 30 grams, being the expected yield of dried marihuana per plant,
- (b) if the production area is entirely outdoors,

$$E = D \times B \times 1.5$$

where B is 250 grams, being the expected yield of dried marihuana per plant, and

- (c) if the production area is partly indoors and partly outdoors,

$$E = D \times B \times 1.5$$

where B is 250 grams, being the expected yield of dried marihuana per plant.

Grounds for Refusal

32. The Minister shall refuse to issue a personal-use production licence if
- (a) the applicant is not a holder of an authorization to possess;
 - (b) the applicant is not eligible under section 25;
 - (c) any information or statement included in the application is false or misleading;
 - (d) the proposed production site would be a site for the production of marihuana under more than three licences to produce; or
 - (e) the applicant would be the holder of more than one licence to produce.

Expiry of Licence

33. A personal-use production licence expires on the earlier of
- (a) 12 months after its date of issue, and
 - (b) the date of expiry of the authorization to possess held by the licence holder.

Designated-person Production Licence

Authorized Activities

34. (1) The holder of a designated-person production licence is authorized, in accordance with the licence,
- (a) to produce marihuana for the medical purpose of the person who applied for the licence;
 - (b) to possess and keep, for the purpose mentioned in paragraph (a), a quantity of dried marihuana not exceeding the maximum quantity specified in the licence;
 - (c) if the production site specified in the licence is different from the site where dried marihuana may be kept, to transport directly from the first to the second site a quantity of marihuana not exceeding the maximum quantity that may be kept under the licence;
 - (d) subject to subsection (1.1), if the site specified in the licence where dried marihuana may be kept is different from the place where the person who applied for the licence ordinarily resides, to send or transport directly from that site to the place of residence a quantity of dried marihuana not exceeding the maximum quantity specified in the authorization to possess on the basis of which the licence was issued; and
 - (e) to provide or deliver to the person who applied for the licence a quantity of dried marihuana not exceeding the maximum quantity specified in the authorization to possess on the basis of which the licence was issued.

(1.1) A holder of a designated-person production licence sending dried marihuana under paragraph 34(1)(d) shall

- (a) securely pack the marihuana in a package that
 - (i) prevents the contents from being identified without the package being opened, and
 - (ii) is sealed so that the package cannot be opened without the seal being broken; and
 - (b) use a method of sending that involves
 - (i) a means of tracking the package during transit,
 - (ii) obtaining a signed acknowledgment of receipt by the holder of the authorization to possess, and
 - (iii) safekeeping of the package during transit. SOR/2003-387, s. 8.
- (2) [Repealed, SOR/2003-387, s. 8]

Eligibility for Licence

35. A person is eligible to be issued a designated-person production licence only if the person is an individual ordinarily resident in Canada who

- (a) has reached 18 years of age; and
- (b) has not been found guilty, within the 10 years preceding the application, of
 - (i) a designated drug offence, or
 - (ii) an offence committed outside Canada that, if committed in Canada, would have constituted a designated drug offence.

Priority of Application for Authorization

36. (1) An application for a designated-person production licence shall be considered only if it is made by a person who

- (a) is the holder of an authorization to possess on the basis of which the licence is applied for; or
- (b) is not the holder of an authorization to possess, but either has applied for an authorization to possess or is applying for an authorization to possess concurrently with the licence application.

(2) If paragraph (1)(b) applies, the Minister must grant or refuse the application for an authorization before considering the licence application.

Application for Licence

37. (1) A person mentioned in subsection 36(1) who is seeking to have a designated-person production licence issued to a designated person shall submit an application to the Minister.

- (2) The application must include
 - (a) a declaration by the applicant;
 - (b) a declaration by the designated person;

- (c) if the proposed production site is not the ordinary place of residence of the applicant and is not owned by the applicant, a declaration made by the owner of the site consenting to the production of marihuana at the site;
 - (d) a document issued by a Canadian police force establishing that, in respect of the 10 years preceding the application, the designated person does not have a criminal record as an adult for a designated drug offence; and
 - (e) two copies of a current photograph of the designated person that complies with the standards in paragraphs 10(a) to (c) and is certified by the applicant, on the reverse side, to be an accurate representation of the designated person.
- (3) The application may not be made jointly with another person.

Applicant's Declaration

38. (1) The declaration of the applicant under paragraph 37(2)(a) must
- (a) include the information referred to in paragraphs 28(1)(a) to (d);
 - (b) indicate the name, date of birth and gender of the designated person;
 - (c) indicate the full address of the place where the designated person ordinarily resides as well as the designated person's telephone number and, if applicable, facsimile transmission number and e-mail address; and
 - (d) indicate the mailing address of the place referred to in paragraph (c), if different.
- (2) The declaration must be dated and signed by the applicant and attest that the information contained in the declaration is complete and correct.

Designated Person's Declaration

39. (1) The declaration of the designated person under paragraph 37(2)(b) must
- (a) include the information referred to in paragraphs 28(1)(e) to (g) and (i);
 - (b) indicate that the dried marihuana will be kept indoors and whether it is proposed to keep it at:
 - (i) the proposed production site, or
 - (ii) the ordinary place of residence of the designated person, if the proposed production site is not the ordinary place of residence of the applicant; and
 - (c) indicate that, within the 10 years preceding the application, the designated person has not been convicted of
 - (i) a designated drug offence, or
 - (ii) an offence that, if committed in Canada, would have constituted a designated drug offence.
- (2) The declaration must be dated and signed by the designated person and attest that the information contained in it is correct and complete.

Issuance of Licence

40. (1) Subject to section 41, if the requirements of sections 37 to 39 are met, the Minister shall issue a designated-person production licence to the designated person.
- (2) The licence shall indicate

- (a) the name, date of birth and gender of the holder of the licence;
- (b) the name, date of birth and gender of the person for whom the holder of the licence is authorized to produce marihuana and the full address of that person's place of ordinary residence;
- (c) the full address of the place where the holder of the licence ordinarily resides;
- (d) the licence number;
- (e) the full address of the site where the production of marihuana is authorized;
- (f) the authorized production area;
- (g) the maximum number of marihuana plants that may be under production at the production site at any time;
- (h) the full address of the site where the dried marihuana may be kept;
- (i) the maximum quantity of dried marihuana that may be kept at the site authorized under paragraph (h) at any time;
- (j) the date of issue; and
- (k) the date of expiry.

Grounds for Refusal

41. The Minister shall refuse to issue a designated-person production licence
- (a) if the designated person is not eligible under section 35;
 - (b) [Repealed, SOR/2003-387, s. 9]
 - (b.1) if the designated person would be the holder of more than one licence to produce; or
 - (c) for any reason referred to in paragraphs 32(a) to (d). SOR/2003-387, s. 9.

Expiry of Licence

42. A designated-person production licence expires on the earlier of
- (a) 12 months after its date of issue, and
 - (b) the date of expiry of the authorization to possess on the basis of which the licence was issued.

General Provisions

Renewal of Licence to Produce

43. An application to renew a licence to produce shall be made to the Minister by the person who applied for the licence and shall include
- (a) the licence number; and
 - (b) the material required under sections 27 and 28 or under sections 37 to 39, whichever apply.
44. Subject to section 45, if an application complies with section 43, the Minister shall renew the licence to produce.
45. The Minister shall refuse an application to renew a licence to produce for any reason referred to in section 32 or 41, whichever applies.

Change of Production Site or Production Area

46. (1) A person who applied for a licence to produce shall submit an application to the Minister to amend the licence if the person proposes to change the location of the production site or the production area.

- (2) The application under subsection (1) shall include
- (a) the licence number;
 - (b) in the case of a proposed change of production site, the full address of the proposed new site and supporting reasons for the proposed change;
 - (c) in the case of a proposed change of production area, the proposed new production area and supporting reasons for the proposed change; and
 - (d) the material required under sections 27 and 28 or sections 37 to 39, whichever apply.

47. Subject to section 48, if an application complies with subsection 46(2), the Minister shall amend the licence to produce.

48. The Minister shall refuse to amend a licence to produce for any reason referred to in section 32 or 41, whichever applies.

Change of Site Where Dried Marihuana Is Kept

49. (1) If the holder of a licence to produce proposes to change the location of the site where dried marihuana is kept, the holder shall apply to the Minister in writing, not less than 15 days before the intended effective date of the change.

- (2) The application shall indicate
- (a) the new site, selected from among those permitted under paragraph 28(1)(h) or 39(1)(b), whichever applies; and
 - (b) the intended effective date of the change.

(3) On receipt of an application that complies with subsection (2), the Minister shall amend the licence to reflect the change stated in the application.

Notice of Change of Information

50. (1) The holder of a licence to produce shall, within 10 days after the occurrence, notify the Minister in writing of

- (a) a change in the holder's name; or
- (b) subject to subsection (2), a change in the holder's address of ordinary residence.

(2) If the holder's address of ordinary residence is also the address of the site for the production of marihuana under the licence, the holder shall make an application under section 46.

(3) A notice under paragraph (1)(a) must be accompanied by proof of the change.

(4) On receiving a notice that complies with subsection (3), the Minister shall amend the licence to produce to reflect the change stated in the notice.

Marihuana Seed

51. (1) The Minister, and any person designated by the Minister under section 57 of the Act, is authorized to import and possess marihuana seed for the purpose of selling, providing, transporting, sending or delivering the seed in accordance with this section.

(2) The persons referred to in subsection (1) may sell, provide, transport, send or deliver marihuana seeds only to

- (a) the holder of a licence to produce; or
- (b) a licensed dealer under the *Narcotic Control Regulations*.

Restrictions

52. The holder of a licence to produce may produce marihuana only at the production site authorized in the licence and only in accordance with the authorized production area.

53. If the production area for a licence to produce permits the production of marihuana entirely outdoors or partly indoors and partly outdoors, the holder shall not produce marihuana outdoors if the production site is adjacent to a school, public playground, day care facility or other public place frequented mainly by persons under 18 years of age.

54. [Repealed, SOR/2003-387, s. 10]

54.1 The holder of a licence to produce shall not produce marihuana in common with more than two other holders of licences to produce. SOR/2003-387, s. 11.

55. The holder of a licence to produce may keep dried marihuana only indoors at the site authorized in the licence for that purpose.

56. [Repealed, SOR/2003-387, s. 12]

Inspection

57. (1) To verify that the production of marihuana is in conformity with these Regulations and a licence to produce, an inspector may, at any reasonable time, enter any place where the inspector believes on reasonable grounds that marihuana is being produced or kept by the holder of the licence to produce, and may, for that purpose,

- (a) open and examine any container found there that could contain marihuana;
- (b) examine anything found there that is used or is capable of being used to produce or keep marihuana;
- (c) examine any records, electronic data or other documents found there dealing with marihuana, other than records dealing with the medical condition of a person, and make copies or take extracts;
- (d) use, or cause to be used, any computer system found there to examine electronic data referred to in paragraph (c);
- (e) reproduce, or cause to be reproduced, any document from electronic data referred to in paragraph (c) in the form of a printout or other output;
- (f) take any document or output referred to in paragraph (c) or (e) for examination or copying;
- (g) examine any substance found there and, for the purpose of analysis, take samples, as reasonably required; and

(h) seize and retain any substance found there, if the inspector believes, on reasonable grounds, that it is necessary.

(2) Despite subsection (1), an inspector may not enter a dwelling-place without the consent of an occupant.

PART 3

OBLIGATIONS CONCERNING DOCUMENTS AND REVOCATION

Showing Documents

58. (1) On demand, the holder of an authorization to possess must show proof of their authority to possess dry marihuana to a police officer.

(2) On demand, the holder of a licence to produce must show the licence to a police officer.

Unauthorized Changes

59. No one may add to, delete or obliterate from, or alter in any other way, an authorization to possess or a licence to produce.

Return of Documents

60. (1) If an authorization to possess or licence to produce is renewed or amended, the holder of the authorization or licence shall, within 30 days after receiving the new document, return the replaced document to the Minister.

(2) If an authorization to possess or licence to produce expires without being renewed or is revoked, the holder of the authorization or licence shall, within 30 days after the occurrence, return the expired or revoked document to the Minister.

Security and Reporting Loss or Theft

61. (1) The holder of an authorization to possess or a licence to produce shall maintain measures necessary to ensure the security of the marihuana in their possession as well as the authorization or licence, or both, issued to them.

(2) In the case of the loss or theft of marihuana or of the holder's authorization or licence, the holder of the authorization or licence shall, on becoming aware of the occurrence,

(a) within the next 24 hours, notify a member of a police force; and

(b) within the next 72 hours, notify the Minister, in writing, and include confirmation that the notice required under paragraph (a) has been given.

Revocation

62. (1) The Minister shall revoke the authorization to possess and any licence to produce issued on the basis of the authorization, if the holder of an authorization requests that the authorization be revoked.

(2) Subject to section 64, the Minister shall revoke an authorization to possess and any licence to produce issued on the basis of the authorization if

(a) the holder of the authorization is not eligible under section 3;

(b) a medical practitioner for the holder of the authorization advises the Minister in writing that the use of marihuana by the holder is no longer recommended;

(c) the authorization was issued on the basis of false or misleading information; or

- (d) the photograph submitted under paragraph 4(2)(c) or section 14 as part of the application for the authorization or renewal is not an accurate representation of the holder of the authorization. SOR/2003-387, s. 13.
63. (1) On request by the holder of a licence to produce, the Minister shall revoke the licence.
- (2) Subject to section 64, the Minister shall revoke a licence to produce if
- (a) the holder is not eligible under section 25 or 35, whichever applies;
 - (b) the holder of a personal-use production licence is found guilty of a designated marihuana offence committed after the date of issue of the licence;
 - (c) the holder of a designated-person production licence is found guilty of a designated drug offence committed after the date of issue of the licence;
 - (d) the holder of a licence to produce marihuana outdoors produces marihuana in contravention of section 53;
 - (e) the photograph submitted under paragraph 37(2)(e) or section 43 as part of the application for a designated-person production licence or renewal is not an accurate representation of the designated person; or
 - (f) the licence to produce was issued on the basis of false or misleading information.
64. The Minister shall not revoke an authorization to possess or a licence to produce under section 62 or 63 unless
- (a) the Minister has given the holder of the authorization or licence written notice of the reasons for the proposed revocation; and
 - (b) the holder has been given an opportunity to be heard.

Destruction of Marihuana

65. (1) If an authorization to possess expires without being renewed or is revoked, the holder shall destroy all marihuana in their possession.
- (2) If a licence to produce expires without being renewed or is revoked, the holder of the licence shall discontinue production of marihuana and, subject to section 66, destroy all marihuana in their possession.
- (3) Within 10 days after destroying the marihuana, the holder of the authorization or the licence shall notify the Minister, in writing, of the amount of marihuana destroyed.
66. (1) If a personal-use production licence expires without being renewed but the holder remains the holder of a valid authorization to possess, the holder is not required to destroy dried marihuana that is not in excess of the maximum quantity permitted under the authorization.
- (2) If a designated-person production licence expires without being renewed but the authorization to possess on the basis of which the licence was issued remains valid, the holder of the licence, before destroying marihuana, may immediately transport, transfer, give or deliver directly to the holder of the authorization not more than a quantity of dried marihuana that results in the holder of the authorization being in possession of the maximum quantity permitted under the authorization.

67. (1) If a licence to produce is amended under section 47 or at the time of the renewal to reflect an change in the production area, the holder of the licence must destroy any marihuana plants in production under the licence that are in excess of the maximum number of plants that may be produced under the licence, as changed.

(2) If a licence to produce is amended under section 47 or at the time of the renewal to reflect an change in the production area, the holder of the licence must destroy any dried marihuana kept under the licence that is in excess of the maximum quantity of marihuana that may be kept under the licence, as changed.

Complaints and Disclosure of Information

68. (1) An inspector shall receive and make a written record of any complaint from the public concerning a person who is a holder of an authorization to possess or licence to produce with respect to their possession or production of marihuana.

(2) The inspector shall report to the Minister any complaint recorded under subsection (1).

(3) The Minister may communicate to any police force in Canada or any member of a police force in Canada, any information contained in the report of the inspector, subject to that information being used only for the proper enforcement or administration of the Act or these Regulations.

69. The Minister may provide, in writing, any factual information that has been obtained about a medical practitioner under the Act or these Regulations to the licensing authority responsible for the registration or authorization of the person to practise medicine

- (a) in the province in which the medical practitioner is authorized to practise if
 - (i) the authority submits to the Minister a written request that sets out the name and address of the medical practitioner, a description of the information being sought and a statement that the information is required for the purpose of assisting a lawful investigation by the authority, or
 - (ii) the Minister has reasonable grounds to believe that the medical practitioner has
 - (A) contravened a rule of conduct established by the authority,
 - (B) been found guilty in a court of law of a designated drug offence, or
 - (C) made a false statement under these Regulations; or
- (b) in a province where the medical practitioner is not authorized to practise, if the authority submits to the Minister
 - (i) a written request for information that sets out
 - (A) the name and address of the medical practitioner, and
 - (B) a description of the information being sought, and
 - (ii) documentation that shows that the medical practitioner has applied to that authority to practise in that province.

PART 4

SUPPLY OF DRIED MARIHUANA

70. A medical practitioner who has obtained dried marihuana from a licensed dealer under subsection 24(2) of the *Narcotic Control Regulations* may provide the marihuana to the holder of an authorization to possess under the practitioner's care. SOR/2003-387, s. 14.

70.1 A licensed dealer, as defined in section 2 of the *Narcotic Control Regulations*, producing dried marihuana under contract with Her Majesty in right of Canada may provide or send that marihuana to the holder of an authorization to possess. SOR/2003-387, s. 14.

NARCOTIC CONTROL REGULATIONS

71. Paragraph 53(1) of the *Narcotic Control Regulations*¹ is replaced by the following:

53. (1) No practitioner shall administer, prescribe, give, sell or furnish a narcotic to any person or animal except as authorized under this section or the *Marihuana Medical Access Regulations*.

¹ C.R.C., c. 1041

TRANSITIONAL PROVISION

72. If, on the coming into force of these Regulations, a person is, for a medical purpose, exempt under section 56 of the Act from the application of subsection 4(1) and, if applicable, section 7 of the Act in respect of marihuana, the person is, by virtue of this section, exempt from those provisions for a period of six months after the date of expiry for the section 56 exemption, on the same terms and conditions as those contained in the section 56 exemption except for any term or condition pertaining to the expiry date of the exemption.

COMING INTO FORCE

73. These Regulations come into force on July 30, 2001.

SCHEDULE

(Section 1)

CATEGORY 2 SYMPTOMS

Column 1	Column 2
Medical Condition	Symptom
Cancer, AIDS, HIV infection	Severe nausea
Cancer, AIDS, HIV infection	Cachexia, anorexia, weight loss
Multiple sclerosis, spinal cord injury or disease	Persistent muscle spasms
Epilepsy	Seizures
Cancer, AIDS, HIV infection, multiple sclerosis, spinal cord injury or disease, severe form of arthritis	Severe pain

E/NL.2004/29

Registration

SOR/2002-359 24

September, 2002

CONTROLLED DRUGS AND SUBSTANCES ACT

PRECURSOR CONTROL REGULATIONS

P.C. 2002-1615 24 September, 2002

Whereas a provision of the annexed Regulations deals with the communication of information obtained under the Regulations to certain classes of persons, and in the opinion of the Governor in Council, pursuant to paragraph 55(1)(s) of the *Controlled Drugs and Substances Act*,¹ it is necessary to communicate the information to those classes of persons for the proper administration of the Act and the Regulations;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,² hereby makes the annexed *Precursor Control Regulations*.

PRECURSOR CONTROL REGULATIONS

INTERPRETATION

1. The following definitions apply in these Regulations.

"Act" means the *Controlled Drugs and Substances Act*.³

"Class A export permit" means a permit to export one or more Class A precursors, issued under section 33.

"Class A import permit" means a permit to import one or more Class A precursors, issued under section 26.

"Class A precursor" means,

(a) any substance set out in Part 1 of Schedule VI to the Act; and

(b) any preparation or mixture referred to in Part 3 of Schedule VI to the Act that contains a substance referred to in paragraph (a).

"Class B export permit" means a permit to export one or more Class B precursors, issued under section 70.

"Class B precursor" means,

(a) any substance set out in Part 2 of Schedule VI to the Act; and

(b) any preparation or mixture referred to in Part 3 of Schedule VI to the Act that contains a substance referred to in paragraph (a).

¹ Original note: S.C.1996, c.19

² Original note: S.C.1996, c.19

³ Note by the Secretariat: E/NL.2004/21

"competent authority" means a public authority of a foreign country that is authorized under the laws of the country to approve the importation or exportation of precursors into or from the country.

"customs officer" means an officer as defined in subsection 2(1) of the *Customs Act*.

"designated criminal offence" means

- (a) any offence involving the financing of terrorism against sections 83.02 to 83.04 of the *Criminal Code*;
- (b) any offence involving fraud against sections 380 to 382 of the *Criminal Code*;
- (c) the offence of laundering proceeds of crime against section 462.31 of the *Criminal Code*;
- (d) an offence involving organized crime against sections 467.11 to 467.13 of the *Criminal Code*; or
- (e) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraphs (a) to (e).

"designated drug offence" means

- (a) an offence against section 39, 44.2, 44.3, 48, 50.2 or 50.3 of the *Food and Drugs Act*, as those provisions read immediately before May 14, 1997;
- (b) an offence against section 4, 5, 6, 19.1 or 19.2 of the *Narcotic Control Act*, as those provisions read immediately before May 14, 1997;
- (c) an offence under Part I of the Act, except subsection 4(1), and an offence against section 46 of the Act; or
- (d) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraphs (a) to (c).

"drug in dosage form" means a drug in a form that is ready for use by the consumer without requiring any further manufacturing.

"extract" means, in respect of a precursor, to isolate the precursor from a preparation or mixture by any physical or chemical process including distillation.

"Harmonized System Code" means, in respect of goods, the numeric identifier set out for those goods in the *Harmonized Commodity Description and Coding System* published by the World Customs Organization.

"INCB" means the International Narcotics Control Board.

"internal controls" means, in respect of an undertaking conducting activities pertaining to a precursor, the internal processes and procedures used by the undertaking to assist in achieving the objective that, to the extent practical, it has reliable information about its precursor activities governed by these Regulations.

"international obligation" means an obligation in respect of a controlled substance or a precursor set out in a convention, treaty or other multilateral or bilateral instrument that Canada has ratified or to which Canada adheres.

"licence" means a licence issued to a licensed dealer under section 16.

"licensed dealer" means the holder of a licence.

"produce" means, in respect of a precursor, to obtain the precursor by any method or process, including

- (a) manufacturing, synthesizing or using any means of altering the chemical or physical properties of the precursor, or
- (b) cultivating, propagating or harvesting the precursor or any living thing from which the precursor may be isolated or otherwise obtained

and includes offer to produce.

"registered dealer" means the holder of a registration certificate.

"registration" means registration by the Minister under section 62.

"registration certificate" means a certificate issued under section 62.

"responsible person in charge" means the individual designated under subsection 13(2) having responsibility for the supervision of activities carried out at the licensed site by the licensed dealer under their licence.

"senior person in charge" means

- (a) in respect of a licensed dealer, the individual designated under subsection 13(1) to have overall responsibility for management of the licensed dealer's Class A precursor activities at the licensed site; and
- (b) in respect of a registered dealer, the individual designated under subsection 59(1) to have overall responsibility for management of the registered dealer's Class B precursor activities.

"site" means, in respect of a licensed dealer or a registered dealer carrying on one or more activities mentioned in section 6 or 57, respectively,

- (a) a building or place in a building used by the licensed dealer or registered dealer; or
- (b) an area occupied exclusively by buildings used by the licensed dealer or registered dealer.

"transshipment" means, in respect of a Class A precursor that has been unloaded or in any way removed from the means of transportation by which it came into Canada, its loading or placing on board or within or on the same or any other means of transportation used for its departure from Canada.

PART 1

CLASS A PRECURSORS

Exemption

2. Any drug in dosage form that contains a Class A precursor listed in Schedule F to the *Food and Drug Regulations* is exempt from the application of these Regulations except in respect of the production, packaging, importation or exportation of such a drug.

3. A Class A precursor that is a preparation or mixture is exempt from the application of section 6 of the Act and these Regulations if

- (a) it is a fragrance or flavouring
 - (i) containing anthranilic acid, N-anthranilic acid, phenylacetic acid, piperonal or piperidine in a total concentration equal to or less than 20% by weight or volume in the case of a solid or liquid, respectively, and

(ii) intended to be used in a food, drug, cosmetic or household product; or

(b) it is a silicone product that is a sealant, adhesive or coating containing acetic anhydride in a concentration equal to or less than 1% by weight or volume in the case of a solid or liquid, respectively.

4. A Class A precursor that is a preparation or mixture is exempt from the application of section 6 of the Act and these Regulations, except sections 52 to 54, if an exemption certificate in respect of the preparation or mixture has been issued under section 49 and is still in effect.

5. (1) Paragraph 6(1)(b) and subsection 6(2) do not apply if the person

(a) only sells or provides goods on a retail basis;

(b) sells or provides a selection of goods that is not limited to chemicals or chemicals and equipment used in the chemical industry for the production, processing or storage of chemicals; and

(c) sells or provides:

(i) a precursor set out in column 1 of the schedule, only in a quantity, per transaction, that does not exceed the maximum quantity, expressed as an absolute quantity or per package, specified for the precursor in column 2 of the schedule, and

(ii) a precursor that is a preparation or mixture containing a precursor set out in column 1 of the schedule, only in a quantity, per transaction, that does not exceed the maximum quantity, expressed as an absolute quantity or per package, specified for the contained precursor in column 2 of the schedule.

(2) In paragraph (1)(a), "retail" refers to a sale or provision of goods for the purpose of end-use and not resale.

Limitation on Activities

6. (1) No person other than a licensed dealer may

(a) produce a Class A precursor;

(b) package a Class A precursor; or

(c) sell or provide a Class A precursor.

(2) No person may possess a Class A precursor for the purpose of an activity mentioned in subsection (1), except to the extent necessary to conduct the activity in relation to the precursor, as authorized by the person's licence.

(3) A licensed dealer may import or export a Class A precursor or possess a Class A precursor for the purpose of export if the dealer complies with the conditions set out in section 7.

Conditions Applicable to Licensed Dealers

7. A licensed dealer may carry out an activity referred to in section 6 if

(a) the licensed dealer is licensed to carry out the activity with respect to the Class A precursor;

(b) the licensed dealer carries out the activity in accordance with all conditions set out in the licence;

(c) in the case of import, the licensed dealer is the holder of a Class A import permit for the precursor and acts in accordance with all conditions set out in the permit; and

(d) in the case of export, the licensed dealer is the holder of a Class A export permit for the precursor and acts in accordance with all conditions set out in the permit.

End-use Declaration

8. (1) A licensed dealer who intends to sell or provide, to a person who is not a licensed dealer, a Class A precursor set out in column 1 of the schedule in a quantity, per transaction, greater than the maximum quantity, expressed as an absolute quantity or per package, specified for the precursor in column 2 of the schedule shall obtain, prior to entering into the transaction, an end-use declaration signed and dated by the person acquiring the precursor in which the signatory certifies that they will be the end-user of the precursor and certifies all end-uses for which the precursor is being acquired.

(2) If a licensed dealer intends to sell or provide, to a person who is not a licensed dealer, a Class A precursor that is a preparation or mixture containing a precursor set out in Part 1 of Schedule VI to the Act, an end-use declaration under subsection (1) is required if the quantity of the contained precursor, per transaction, is greater than the maximum quantity, expressed as an absolute quantity or per package, specified for the contained precursor in column 2 of the schedule.

(3) An end-use declaration obtained under subsection (1) or (2) applies to any subsequent transaction between the licensed dealer and the signatory to the declaration that occurs in the same calendar year as the transaction mentioned in the declaration if the subsequent transaction involves the same Class A precursor and the same end-uses.

(4) For greater certainty, another end-use declaration must be obtained in respect of a subsequent transaction between the licensed dealer and the signatory to the declaration that occurs in the same calendar year as the transaction mentioned in the declaration if the transaction involves a different Class A precursor or a different end-use.

(5) A licensed dealer required to obtain an end-use declaration must take reasonable steps to verify the identity of the signatory to the declaration if that person or their signature is unfamiliar to the licensed dealer.

Limitation on Transportation

9. (1) No person may send, transport or deliver a Class A precursor, or possess the precursor for such a purpose, except

(a) a licensed dealer, to the extent necessary to conduct an activity permitted by the licence in respect of the precursor; or

(b) a representative of the licensed dealer.

(2) A licensed dealer must, when transporting an imported Class A precursor between the port of entry and the site set out in the licence, or when sending, delivering or transporting a Class A precursor to a destination, including the port of exit, take all steps necessary to ensure the safekeeping of the precursor during transportation or ensure that all steps are taken so as to prevent the diversion of the precursor to an illicit market or use.

10. A person shall not transport a Class A precursor in transit through Canada or tranship a Class A precursor in Canada that is coming from one country and going to another or possess a Class A precursor for either of those purposes except in accordance with a permit issued under section 40.

Individuals

11. (1) An individual entering or returning to Canada and having in their possession a Class A precursor that is a preparation or mixture may import the preparation or mixture if

- (a) the preparation or mixture is intended to treat a medical condition of the individual or an accompanying person for whom the individual is responsible;
 - (b) in the case of a preparation or mixture containing ephedra, ephedrine or pseudoephedrine, the preparation or mixture is packaged and labelled as a consumer product and the total quantity imported of the precursor contained in the preparation or mixture does not exceed
 - (i) in the case of ephedra, 20 g,
 - (ii) in the case of ephedrine, 0.4 g, and
 - (iii) in the case of pseudoephedrine, 3 g; and
 - (c) in the case of a preparation or mixture containing ergometrine or ergotamine, the preparation or mixture is packaged in a container with a label showing that it was dispensed under prescription in a pharmacy or hospital or by a physician and the total quantity imported of the precursor contained in the preparation or mixture does not exceed the lesser of
 - (i) a single prescribed course of treatment, and
 - (ii) a 90-day supply, based on the normal daily dose for the precursor.
- (2) An individual leaving Canada and having in their possession a Class A precursor that is a preparation or mixture may export the preparation or mixture if the requirements of subsection (1) are met, with any modifications that the circumstances require.

Licence

Eligibility for a Licence

12. To be eligible to apply for a licence, a person must be

- (a) an individual who ordinarily resides in Canada; or
- (b) a corporation that has its head office or a branch office in Canada.

Senior Person in Charge and Responsible Person in Charge

13. (1) A licensed dealer must designate a senior person in charge, who may, if appropriate, be the licensed dealer, to have overall responsibility for management of the licensed dealer's Class A precursor activities at the licensed site.

(2) A licensed dealer must designate a responsible person in charge, who may, if appropriate, be the senior person in charge, to work at the site set out in the licence and have responsibility for supervising, on behalf of the licensed dealer, the licensed dealer's Class A precursor activities at the site and for ensuring that the activities comply with these Regulations.

(3) A licensed dealer may designate an alternate responsible person in charge to work at the site set out in the licence and have authority to replace the responsible person in charge when that person is absent.

(4) The senior person in charge, responsible person in charge and the alternate responsible person in charge

- (a) must be familiar with the provisions of the Act and these Regulations that apply to the licence held by the licensed dealer by whom they are designated; and
- (b) must not have been convicted, as an adult, within the previous 10 years, of
 - (i) a designated drug offence,

- (ii) a designated criminal offence, or
- (iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii).

(5) The responsible person in charge and the alternate responsible person in charge must have sufficient knowledge concerning the use and handling of Class A precursors to which the licence applies, including the risk of those precursors being diverted to an illicit market or use, to enable them to properly perform their responsibilities.

Application for a Licence

14. (1) An application for a licence or to renew a licence pertaining to a Class A precursor shall be made to the Minister and contain the following information

- (a) the applicant's name or, if the applicant is a corporation, their corporate name and any other name registered with a province, under which the applicant will carry out the activities set out in the licence or will identify itself;
 - (b) for each Class A precursor sought to be licensed,
 - (i) its name, if any, otherwise a description of its chemical composition,
 - (ii) if it is a salt, the name of the salt, and
 - (iii) if it is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 1 of Schedule VI to the Act that it contains;
 - (c) for each precursor mentioned in the application, the Class A precursor activity referred to in section 6 that is sought to be licensed and that would be conducted at the site to which the licence would apply;
 - (d) the address, telephone number, facsimile transmission number and e-mail address of the site sought to be licensed and each building within the site where the activity sought to be licensed is to be carried out;
 - (e) the postal address for the site and each building referred to in paragraph (d), if different from the address provided under that paragraph;
 - (f) the name, date of birth, gender, position with the applicant, telephone number, facsimile transmission number and e-mail address of the senior person in charge for the site;
 - (g) the name, date of birth and gender of the responsible person in charge for the site and the alternate responsible person in charge, if any;
 - (h) a description of the proposed security measures to be used at the site and when a precursor is sent, transported or delivered;
 - (i) a description of the internal controls proposed with respect to precursor activities at the site; and
 - (j) in the case of an application to renew, the number of the licence sought to be renewed.
- (2) If the applicant intends to engage in an activity referred to in section 6 respecting Class A precursors at more than one site, a separate application must be made for each site.
- (3) The application for a licence or its renewal must
- (a) be signed by the senior person in charge for the site mentioned in the application; and
 - (b) include a statement that

- (i) the information and documents provided in the application are correct and complete to the best of the knowledge of the signatory, and
 - (ii) the signatory has the authority to bind the applicant.
- (4) An application for a licence or its renewal must be accompanied by
- (a) declarations signed by the senior person in charge, the responsible person in charge and the alternate responsible person in charge, if any, stating that they have not, as an adult, been convicted within the previous 10 years of
 - (i) a designated drug offence,
 - (ii) a designated criminal offence, or
 - (iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii);
 - (b) a document issued by a Canadian police force with respect to each of the persons referred to in paragraph (a), setting out the person's criminal record for the previous 10 years, as an adult, in respect of designated drug offences and designated criminal offences, or indicating that the person has no such record;
 - (c) if any of the persons mentioned in paragraph (a) has ordinarily resided in a country other than Canada in the preceding 10 years, a document issued by a police force of that country setting out the person's criminal record for the previous 10 years, as an adult, in respect of an offence that would have constituted a designated drug offence if committed in Canada, or indicating that the person has no such record; and
 - (d) if applicable, a copy of
 - (i) the certificate of incorporation or other constituting instrument for the applicant, and
 - (ii) any document filed with the province in which the site sought to be licensed is located that states the applicant's corporate name and any other name registered with the province under which the applicant will carry out the activities set out in the licence or will identify itself.
- (5) The documents referred to in paragraphs (4)(b) and (c) are not required if the persons referred to in those paragraphs consent in writing
- (a) to having a criminal record check carried out for them, as an adult, in respect of the offences mentioned in those paragraphs during the preceding 10 years;
 - (b) to provide all information and to submit to any means of identification required to obtain the criminal record check; and
 - (c) to pay the fee established by the *Royal Canadian Mounted Police, Criminal Record Verification for Civil Purposes Fee Regulations*.

Additional Information

15. The Minister may, on receiving an application made under this Part, require the submission of any additional information that pertains to the information contained in the application and that is necessary for the Minister to process the application.

Issuance of Licence

16. Subject to section 17, if the requirements of section 14 are met, the Minister shall issue or renew a licence that indicates

- (a) the licence number;
- (b) the name of the licensed dealer or, if the applicant is a corporation, their corporate name;
- (c) the names of all Class A precursors to which the licence applies;
- (d) for each precursor to which the licence applies, the Class A precursor activities authorized by the licence;
- (e) the address of the licensed site where the authorized activities are to be conducted;
- (f) the effective date of the licence;
- (g) the date of expiry of the licence, which may not be later than three years after the effective date; and
- (h) any conditions that are necessary to
 - (i) ensure that the international obligations of Canada are respected, or
 - (ii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class A precursor being diverted to an illicit market or use.

Grounds for Refusal

17. (1) Subject to subsection (2), the Minister shall, in accordance with subsection 84(1), refuse to issue, renew or amend a licence if

- (a) the applicant is not eligible under section 12;
- (b) any information or document included in the application is false or misleading;
- (c) additional information required under section 15 has not been provided or is insufficient to enable the Minister to process the application;
- (d) the issuance, renewal or amendment of the licence would permit an activity that would not be in compliance with an international obligation of Canada;
- (e) information received from a competent authority or the United Nations raises a reasonable belief that the applicant has been involved in the diversion of a controlled drug or precursor to an illicit market or use;
- (f) the applicant does not have in place the security measures required by section 83 and subsection 85(3) with respect to activities sought to be licensed;
- (g) the applicant is not, or within the previous 10 years has not been, in compliance with
 - (i) a provision of the Act or any regulation made or continued under the Act, or
 - (ii) a term or condition of a licence, registration or import or export permit issued to the applicant under any regulation made or continued under the Act;
- (h) the senior person in charge for the site, the responsible person in charge or the alternate responsible person in charge, if any, has been convicted, as an adult, within the previous 10 years, of
 - (i) a designated drug offence,
 - (ii) a designated criminal offence, or
 - (iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii);

- (i) the proposed internal controls referred to in paragraph 14(1)(i) are not sufficient to
 - (i) support a reliable system of record-keeping in respect of Class A precursor activities and Class A precursor inventory at the site, or
 - (ii) permit the Minister to audit these precursor activities; or
 - (j) the issuance, renewal or amendment of the licence would likely create a risk to public health, safety or security, including the risk of a Class A precursor being diverted to an illicit market or use.
- (2) The Minister is not required to refuse to issue, renew or amend a licence under paragraph (1)(b) or (g) if the applicant
- (a) does not have a history of non-compliance with the Act and any regulation made or continued under the Act; and
 - (b) has carried out, or signed an undertaking to carry out, specified corrective measures to ensure compliance with the Act and these Regulations.

Expiration

18. A licence is valid until the earlier of

- (a) the expiry date set out in the licence; or
- (b) the suspension or revocation of the licence under section 22, 23 or 24.

Amendment of License

19. (1) A licensed dealer proposing to amend the information on their licence shall provide the following documents to the Minister

- (a) an application in writing describing the proposed amendment, accompanied by any supporting documents mentioned in section 14 that are relevant to the proposed amendment; and
- (b) the original licence.

(2) The application must

- (a) be signed by the senior person in charge for the site; and
- (b) include a statement that the information and documents provided in the application are correct and complete to the best of the knowledge of the signatory.

(3) Subject to section 17, if the application complies with subsections (1) and (2), the Minister shall confirm the licence and may add any condition necessary to ensure

- (a) that the international obligations of Canada are respected, or
- (b) compliance with the Act and these Regulations, including reducing the risk of a Class A precursor being diverted to an illicit market or use.

Amendment of Application Information

20. (1) A licensed dealer must obtain the Minister's approval before

- (a) designating a replacement for the senior person in charge; or
- (b) designating a replacement for either the responsible person in charge or the alternate responsible person in charge, or designating an individual to be the alternate responsible person in charge; or

(c) making a change to the internal controls applicable to the Class A precursor activities conducted at the site, as described in the licence application or a request approved under this section.

(2) With a request for approval under paragraph (1)(a) or (b), the licensed dealer must provide the Minister with the following information and documents with respect to the proposed designation:

(a) in the case of a replacement designation for the senior person in charge,

(i) the information specified in paragraph 14(1)(f), and

(ii) the declaration specified in paragraph 14(4)(a) and, subject to subsection 14(5), the documents specified in paragraphs 14(4)(b) and (c); and

(b) in the case of a replacement designation for either the responsible person in charge or the alternate responsible person in charge, or the designation of an individual to be the alternate responsible person in charge,

(i) the information specified in paragraph 14(1)(g), and

(ii) the declaration specified in paragraph 14(4)(a) and, subject to subsection 14(5), the documents specified in paragraphs 14(4)(b) and (c).

(3) With a request for approval under subparagraph (1)(c), the licensed dealer must provide the Minister with the information and documents that permit the Minister to make an evaluation according to paragraph 17(1)(i).

(4) If a senior person in charge ceases to act in that capacity due to death or other unforeseen circumstance, the licensed dealer may authorize another person who satisfies the requirements of subsection 13(4) to act as the interim senior person in charge until approval is granted by the Minister pursuant to paragraph (1)(a) concerning the designation of a replacement for the senior person in charge.

21. (1) A licensed dealer shall advise the Minister within 10 days if the senior person in charge, responsible person in charge or alternate responsible person in charge for the site ceases to act in that capacity.

(2) A licensed dealer shall advise the Minister not later than the next business day if the responsible person in charge for the site ceases to act in that capacity and there is no person designated to act in the capacity of alternate responsible person in charge for the site.

Revocation or Suspension of Licence

22. The Minister shall revoke a licence at the request of the holder or if the holder informs the Minister that the licence has been lost or stolen.

23. (1) Subject to subsection (2), the Minister shall revoke a licence in accordance with subsection 84(1) if

(a) the holder is no longer an eligible person under section 12;

(b) the licence was issued on the basis of false or misleading information or false or falsified documents;

(c) the licensed dealer has failed to comply with a provision of the Act or any regulation under the Act or a term or condition of a licence, a registration or an import or export permit issued under any regulation made or continued under the Act;

- (d) it is discovered that the senior person in charge, the responsible person in charge or the alternate responsible person in charge has been convicted, as an adult, within the previous 10 years of
- (i) a designated drug offence,
 - (ii) a designated criminal offence, or
 - (iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii); or
- (e) information received from a competent authority or the United Nations raises a reasonable belief that the licensed dealer has been involved in the diversion of a controlled substance or precursor to an illicit market or use.
- (2) The Minister is not required to revoke a licence under paragraph (1)(b) or (c) if the licensed dealer
- (a) does not have a history of non-compliance with the Act and any regulation made or continued under the Act; and
 - (b) has carried out, or signed an undertaking to carry out, specified corrective measures to ensure compliance with the Act and these Regulations.
- (3) The Minister may revoke a licence if the licensed dealer fails to comply with the decision of the Minister to suspend the licence under section 24 or if the situation giving rise to the suspension is not rectified.
24. The Minister shall suspend a licence without prior notice if necessary to protect public health, safety or security, including preventing a Class A precursor from being diverted to an illicit market or use.

Importation

Application for Import Permit

25. (1) To apply for a Class A import permit, a licensed dealer shall make an application to the Minister that contains the following information and statement:
- (a) the licensed dealer's name and address and the number of their licence;
 - (b) the licensed dealer's business registration number assigned by the Minister of National Revenue;
 - (c) for the Class A precursor sought to be imported
 - (i) its name or a description of its chemical composition, as stated in the licence, and Harmonized System Code,
 - (ii) if it is a salt, the name of the salt,
 - (iii) if it is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 1 of Schedule VI to the Act that it contains,
 - (iv) the quantity sought to be imported, and, if it is a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains, and
 - (v) in the case of a raw material, its purity;
 - (d) the name of the exporter from whom the precursor is being obtained and their address in the country of export;

- (e) the proposed means of transportation and the name of any country of transit or transshipment;
 - (f) the name of the carrier that is proposed to transport the precursor into Canada;
 - (g) the port of entry in Canada;
 - (h) the proposed date of entry into Canada;
 - (i) the name and address of the customs broker for the licensed dealer, if any; and
 - (j) a statement that the licensed dealer consents to the disclosure of information contained in the application to the INCB and the competent authority in the country of export for the purpose of verifying information contained in the application.
- (2) The application must
- (a) be signed by the responsible person in charge or the alternate responsible person in charge, if any, for the site to which the Class A precursor will be transported after clearing customs; and
 - (b) include a statement that all information set out in the application is correct and complete to the best of the knowledge of the signatory.
- (3) The application may deal with more than one Class A precursor for the same shipment.

Issuance of Import Permit

26. (1) Subject to section 27, if the requirements of section 25 are met, the Minister shall issue to the licensed dealer a Class A import permit that indicates
- (a) the permit number;
 - (b) the information referred to in paragraphs 25(1)(a) to (i);
 - (c) the effective date;
 - (d) the date of expiry, being the earlier of
 - (i) a date determined by the Minister that is not more than 180 days after the effective date, and
 - (ii) the expiry date set out in the applicant's licence; and
 - (e) any conditions that are necessary to
 - (i) ensure that the international obligations of Canada are respected, or
 - (ii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class A precursor being diverted to an illicit market or use.
- (2) A Class A import permit is valid until the earliest of
- (a) the expiry date set out in the permit,
 - (b) the suspension or revocation under section 22, 23 or 24 of the licence pertaining to the permit, and
 - (c) the suspension or revocation of the permit under section 29, 30 or 31.

Grounds for Refusal

27. The Minister shall refuse to issue a Class A import permit if

- (a) a circumstance described in any of paragraphs 17(1)(b) to (g) and (j), with any modifications that the circumstances require, exists with respect to the permit application;
- (b) the applicant does not hold a licence that applies to the Class A precursor sought to be imported or the applicant's licence will expire before the proposed date of entry to Canada;
- (c) the applicant has been informed that one of the following applications made by the applicant with regard to the licence pertaining to the Class A precursor sought to be imported is to be refused under section 17, namely,
 - (i) an application under section 14 to issue or renew the licence, or
 - (ii) an application under section 19 to amend the licence; or
- (d) the Minister has reasonable grounds to believe that the import shipment to which the permit would apply would contravene the laws of the country of export or any country of transit or transshipment.

Surrender of Import Permit

28. The holder of a Class A import permit shall ensure that an official copy of the permit is surrendered to a customs officer at the port of entry at the time of import.

Revocation or Suspension of Permit

29. The Minister shall revoke a Class A import permit at the request of the holder or if the holder informs the Minister that the permit has been lost or stolen.

30. (1) Subject to subsection (2), the Minister shall revoke a Class A import permit in accordance with subsection 84(1) if a circumstance described in any of paragraphs 23(1)(a) to (e) exists with respect to the licence pertaining to the Class A precursor to be imported.

(2) The Minister is not required to revoke a Class A import permit under subsection (1) if the holder of the permit meets the conditions referred to in subsection 23(2).

(3) The Minister may revoke a Class A import permit if the holder fails to comply with the decision of the Minister to suspend the permit under section 31 or if the situation giving rise to the suspension is not rectified.

31. The Minister shall suspend a Class A import permit without prior notice if

- (a) the licence pertaining to the Class A precursor sought to be imported has expired or has been suspended or revoked;
- (b) the suspension is necessary to protect public health, safety or security, including preventing a Class A precursor from being diverted to an illicit market or use; or
- (c) it is discovered that the import would contravene the laws of the country of export or a country of transit or transshipment.

Exportation

Application for Export Permit

32. (1) To apply for a Class A export permit, a licensed dealer shall make an application to the Minister that contains the following information and statements:

- (a) the licensed dealer's name and address and the number of their licence;
 - (b) the licensed dealer's business number assigned by the Minister of National Revenue;
 - (c) for the Class A precursor sought to be exported
 - (i) its name or a description of its chemical composition, as stated in the licence, and Harmonized System Code,
 - (ii) if it is a salt, the name of the salt,
 - (iii) if it is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 1 of Schedule VI to the Act that it contains,
 - (iv) the quantity sought to be exported, and, if it is a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains, and
 - (v) in the case of a raw material, its purity;
 - (d) the name of the importer and their address in the country of final destination;
 - (e) the proposed means of transportation and the name of any country of transit or transshipment;
 - (f) the name of the carrier that is proposed to transport the precursor through the port of exit;
 - (g) the port of exit;
 - (h) the proposed date of export;
 - (i) the name and address of the customs broker for the licensed dealer, if any;
 - (j) a statement by the licensed dealer that to the best of their knowledge the export would not contravene the laws of the country of final destination or any country of transit or transshipment; and
 - (k) a statement that the licensed dealer consents to the disclosure of information contained in the application to the INCB and the competent authority in the country of import for the purpose of verifying information contained in the application.
- (2) The application must
- (a) be signed by the responsible person in charge or the alternate responsible person in charge, if any, for the site from which the Class A precursor will be transported to the port of exit; and
 - (b) include a statement that all information set out in the application is correct and complete to the best of the knowledge of the signatory.
- (3) The application may deal with more than one Class A precursor for the same shipment.

Issuance of Export Permit

33. (1) Subject to section 34, if the requirements of section 32 are met, the Minister shall issue to the licensed dealer a Class A export permit that indicates
- (a) the permit number;
 - (b) the information referred to in paragraphs 32(1)(a) to (i);
 - (c) the effective date;

- (d) the date of expiry, being the earliest of
 - (i) a date determined by the Minister that is not more than 180 days after the effective date,
 - (ii) the expiry date set out in the applicant's licence, and
 - (iii) the expiry date of any import authorization pertaining to the Class A precursor shipment that has been issued by the competent authority in the country of final destination; and
 - (e) any conditions that are necessary to
 - (i) ensure that the international obligations of Canada are respected,
 - (ii) ensure compliance with any requirement of the country of final destination or any country of transit or transshipment, or
 - (iii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class A precursor being diverted to an illicit market or use.
- (2) A Class A export permit is valid until the earliest of
- (a) the expiry date set out in the permit,
 - (b) the suspension or revocation under section 22, 23 or 24 of the licence pertaining to the permit, and
 - (c) the suspension or revocation of the permit under section 36, 37 or 38.

Grounds for Refusal

34. The Minister shall refuse to issue a Class A export permit if
- (a) a circumstance described in any of paragraphs 17(1)(b) to (g) and (j), with any modifications that the circumstances require, exists with respect to the permit application;
 - (b) the applicant does not hold a licence that applies to the Class A precursor sought to be exported or the applicant's licence will expire before the proposed date of export;
 - (c) the applicant has been informed that one of the following applications made by the applicant with regard to the licence pertaining to the Class A precursor sought to be exported is to be refused under section 17, namely,
 - (i) the application under section 14 to issue or renew the licence, or
 - (ii) an application under section 19 to amend the licence;
 - (d) the Minister has reasonable grounds to believe that the export shipment to which the permit would apply would contravene the laws of the country of final destination or any country of transit or transshipment;
 - (e) within seven days after the Minister sends pre-export notification of the proposed export to the competent authority in the country of final destination, the Minister receives written notice from the authority that it has refused to authorize the proposed import or that it objects to the import; or
 - (f) the shipment would not be in conformity with the import authorization or letter of non-objection issued by the competent authority in the proposed country of final destination.

Surrender of Export Permit

35. The holder of a Class A export permit shall ensure that

- (a) an official copy of the permit is attached to the Class A precursor shipment; and
- (b) an official copy of the permit is surrendered to a customs officer at the port of exit at the time of export.

Revocation or Suspension of Permit

36. The Minister shall revoke a Class A export permit at the request of the holder or if the holder informs the Minister that the permit has been lost or stolen.

37. (1) Subject to subsection (2), the Minister shall revoke a Class A export permit in accordance with subsection 84(1) if a circumstance described in any of paragraphs 23(1)(a) to (e) exists with respect to the licence pertaining to the Class A precursor to be exported.

(2) The Minister is not required to revoke a Class A export permit under subsection (1) if the holder of the permit meets the conditions referred to in subsection 23(2).

(3) The Minister may revoke a Class A export permit if the holder fails to comply with the decision of the Minister to suspend the permit under section 38 or if the situation giving rise to the suspension is not rectified.

38. The Minister shall suspend a Class A export permit without prior notice if

- (a) the licence pertaining to the Class A precursor sought to be exported has expired or has been suspended or revoked;
- (b) the suspension is necessary to protect public health, safety or security, including preventing a Class A precursor from being diverted to an illicit market or use; or
- (c) the shipment would not be in conformity with an import authorization or letter of non-objection issued by the competent authority in the country of final destination; or
- (d) it is discovered that the export would contravene the laws of the country of final destination or a country of transit or transshipment.

In Transit and Transshipment

Application for a Permit for Transit or Transshipment

39. (1) If a Class A precursor is to be shipped from one country to another country by a route that requires it to be in transit through Canada or to be transhipped in Canada, the exporter in the country of export or an agent in Canada of that exporter must apply to the Minister for a permit for transit or transshipment by providing the following information:

- (a) the name of the exporter and their address and telephone number in the country of export;
- (b) the name of the importer and their address and telephone number in the country of final destination;
- (c) the name, address and telephone number of the person who will be responsible for the precursor while it is in Canada;
- (d) with respect to the Class A precursor for which the permit is requested,
 - (i) its name, if any, otherwise a description of its chemical composition, and Harmonized System Code,

- (ii) if it is a salt, the name of the salt,
 - (iii) if it is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 1 of Schedule VI to the Act that it contains,
 - (iv) the quantity sought to be shipped and, if it is a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains, and
 - (v) in the case of a raw material, its purity;
- (e) the expected date of transit or transshipment in Canada;
- (f) the port of entry and exit in Canada;
- (g) each proposed means of transportation that is to be used in Canada for the precursor; and
- (h) in the case of a transshipment, the address, if applicable, of every place in Canada at which the precursor will be stored during the transshipment and the expected duration of each storage.
- (2) The application must be accompanied by
- (a) a copy of the export authorization issued by the competent authority in the country of export, if applicable; and
 - (b) a copy of the import authorization issued by the competent authority in the country of final destination, if applicable.
- (3) The application must
- (a) be signed by a person who is authorized for that purpose by the exporter, who may be an agent in Canada of the exporter; and
 - (b) state that all the information submitted in support of the application is correct and complete to the best of the knowledge of the signatory.

Issuance of a Permit for Transit or Transshipment

40. Subject to section 41, if the requirements of section 39 are met, the Minister shall issue to the applicant a permit for transit or transshipment that contains the following information:

- (a) the permit number;
- (b) the information referred to in paragraphs 39(1)(a) to (h);
- (c) the countries of export and final destination and the numbers and expiry dates of the export and import authorizations issued by a competent authority in each of those countries, if applicable; and
- (d) the effective date and the expiry date of the permit.

Grounds for Refusal

41. The Minister shall refuse to issue a permit for transit or transshipment if the Minister has reasonable grounds to believe that

- (a) the issuance of the permit
 - (i) would not be in conformity with an international obligation of Canada,

- (ii) would not be in compliance with the Act, any regulation under the Act, or a law of the country of export, of the country of final destination or of a country of transit or transshipment, or
 - (iii) would likely create a risk to public health, safety or security, including the risk of a Class A precursor being diverted to an illicit market or use; or
- (b) the import authorization issued by a competent authority in the country of final destination has expired or has been suspended or revoked.

Surrender of Permit

42. The holder of a permit for transit or transshipment shall surrender an official copy of the permit to a customs officer at the port of entry set out in the permit.

Notice of Transit or Transshipment

43. Within 15 days after a shipment departs from Canada, the holder of a permit for transit or transshipment that applies the shipment must notify the Minister in writing of the departure date.

Revocation or Suspension of Permit

44. The Minister shall revoke a permit for transit or transshipment at the request of the holder or if the holder informs the Minister that the permit has been lost or stolen.

45. (1) Subject to subsection (2), the Minister shall revoke a permit for transit or transshipment in accordance with subsection 84(1) if

- (a) the permit was issued on the basis of false or misleading information or false or falsified documents;
- (b) the holder of the permit has failed to comply with a provision of the Act or any regulation under the Act or a term or condition of a permit for transit or transshipment issued under these Regulations; or
- (c) information received from a competent authority or the United Nations raises a reasonable belief that the holder has been involved in the diversion of a controlled substance or precursor to an illicit market or use.

(2) The Minister is not required to revoke a permit under paragraph (1)(a) or (b) if the holder of the permit

- (a) does not have a history of non-compliance with the Act and any regulation made or continued under the Act; and
- (b) has carried out, or signed an undertaking to carry out, specified corrective measures to ensure compliance with the Act and these Regulations.

(3) The Minister may revoke a permit if the holder fails to comply with the decision of the Minister to suspend the permit under section 46 or if the situation giving rise to the suspension is not rectified.

46. The Minister shall suspend a permit for transit or transshipment without prior notice if

- (a) there has been an expiration, suspension or revocation of
 - (i) the export permit issued by the competent authority in the country of origin, or
 - (ii) the import permit issued by the country of final destination; or
- (b) the suspension is necessary to protect public health, safety or security, including preventing a Class A precursor from being diverted to an illicit market or use.

Destruction

47. (1) No person may destroy a Class A precursor except in accordance with subsections (2) to (4).

(2) A licensed dealer may destroy, at the site set out in their licence, a Class A precursor named in it if

(a) prior to the destruction, the licensed dealer makes a record showing;

(i) the name of the precursor, if any, otherwise a description of its chemical composition, and

(ii) the quantity of the precursor to be destroyed and, in the case of a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains;

(b) the destruction is conducted in accordance with a method that complies with all federal, provincial and municipal environmental protection legislation applicable to the place of destruction;

(c) the licensed dealer makes a record of the date and method of destruction;

(d) the destruction occurs in the presence of at least two qualified witnesses who work for the licensed dealer, one of whom is the responsible person in charge or the alternate responsible person in charge, if any, for the licensed site; and

(e) once the destruction is completed, the person carrying out the destruction and each person mentioned in paragraph (d) sign and date a joint declaration certifying that the precursor was completely destroyed, to which each signatory shall add their name in printed letters.

(3) A person is qualified to witness the destruction of a Class A precursor if

(a) the person is the responsible person in charge for the site or, if applicable, the alternate responsible person in charge for the site set out in the licence; or

(b) the person works for or provides services to the licensed dealer and acts in a senior position.

(4) If a Class A precursor is to be destroyed elsewhere than at the licensed site, the licensed dealer must ensure that

(a) appropriate measures are taken to ensure security of the precursor during transit in order to prevent the diversion of a Class A precursor to an illicit market or use;

(b) the destruction is carried out by a business that specializes in the destruction of dangerous goods;

(c) the destruction is conducted in accordance with a method that complies with all federal, provincial and municipal environmental protection legislation applicable to the place of destruction; and

(d) once the destruction is completed, the individual within the business carrying out the destruction provides the licensed dealer with a declaration attesting to the complete destruction of the precursor, showing

(i) the name of the precursor, if any, otherwise a description of its chemical composition, and

- (ii) the quantity of the precursor destroyed and, in the case of a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains;
- (iii) the date of destruction,
- (iv) the method of destruction, and
- (v) their name and signature as well as the name and signature of another person within the business who witnessed the destruction.

Exemption for Preparations and Mixtures

Application

48. (1) A person conducting a Class A precursor activity referred to in section 6 in respect of a Class A precursor that is a preparation or mixture or a person desiring to conduct such an activity may apply to have the preparation or mixture exempted from the application of these Regulations by submitting an application to the Minister containing the following information and statements:

- (a) the applicant's name or, if the applicant is a corporation, their corporate name;
 - (b) if the applicant is a licensed dealer, the number of their licence;
 - (c) in respect of the preparation or mixture for which the application is made
 - (i) its name, if any, otherwise a description of its chemical composition, and its brand name, if any,
 - (ii) its qualitative and quantitative composition including all chemical ingredients,
 - (iii) its physical and chemical properties and any difference between those properties and the physical and chemical properties of the chemical ingredients that are precursors set out in Part 1 of Schedule VI to the Act,
 - (iv) the type of analyses used to evaluate its purity and stability, and
 - (v) its intended use;
 - (d) a statement by the applicant that the preparation or mixture is made in such a way that no precursors set out in Part 1 of Schedule VI to the Act can be readily extracted having regard to the complexity and cost of extraction and that the preparation or mixture cannot be used in the production of a controlled substance; and
 - (e) a statement by the applicant of the justification for the exemption and identifying the scientific principles and any other information in support of the statement under paragraph (d).
- (2) The application must
- (a) be signed by
 - (i) a person working for the applicant having supervisory responsibilities pertaining to the preparation or mixture and sufficient knowledge to confirm the information set out in the application, or
 - (ii) the senior person in charge for the site, if the applicant is a licensed dealer; and
 - (b) include a statement that all information set out in the application is correct and complete to the best of the knowledge of the signatory.

Exemption and Issuance of Certificate

49. Subject to section 50, if the requirements of section 48 are met, the Minister shall exempt the precursor that is a preparation or mixture in respect of which the application was made from the application of section 6 of the Act and these Regulations, except sections 52 to 54, and issue to the applicant an exemption certificate for the preparation or mixture that indicates

- (a) the certificate number;
- (b) the name of the exempted preparation or mixture, if any, otherwise a description of its chemical composition, and its brand name, if any;
- (c) the name of the applicant or, if the applicant is a corporation, their corporate name;
- (d) the effective date; and
- (e) any conditions that are necessary to
 - (i) ensure that international obligations of Canada are respected, and
 - (ii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class A precursor being diverted to an illicit market or use.

Grounds for Refusal

50. The Minister shall refuse to exempt a precursor that is a preparation or mixture if, according to the information provided and scientific data or other information or evidence available, a precursor set out in Part 1 of Schedule VI to the Act that is contained in the preparation or mixture can be readily extracted having regard to the complexity and cost of extraction or the preparation or mixture can be used in the production of a controlled substance.

Document Accompanying Shipment

51. The importer or exporter of a precursor that is a preparation or mixture that is exempt under sections 4 and 49 must ensure that the shipment is accompanied by a document stating

- (a) that the preparation or mixture is exempt from the application of these Regulations according to sections 4 and 49; and
- (b) the number of the exemption certificate that applies to the preparation or mixture.

Revocation and Suspension

52. The Minister shall revoke the exemption and the corresponding certificate at the request of the holder.

53. (1) The Minister shall revoke an exemption and the corresponding certificate in accordance with subsection 84(1) if

- (a) the exemption was granted on the basis of false or misleading information, or false or falsified documents; or
- (b) the exemption has been the subject of a suspension under paragraph 54(a) and subsection 84(2) which has not been complied with.

(2) The Minister may revoke an exemption and the corresponding certificate if the holder fails to comply with the decision of the Minister to suspend the exemption under section 54 or if the situation giving rise to the suspension is not rectified.

54. The Minister shall suspend an exemption and the corresponding certificate without prior notice if

(a) new scientific evidence or other new information demonstrates that a precursor set out in Part 1 of Schedule VI to the Act that is contained in the preparation or mixture to which the exemption applies can be readily extracted having regard to the complexity and cost of extraction or that the preparation or mixture may be or has been used in the production of a controlled substance; or

(b) the suspension is necessary to protect public health, safety or security, including preventing a Class A precursor from being diverted to an illicit market or use.

PART 2

CLASS B PRECURSORS

Exemption

55. These Regulations and section 6 of the Act do not apply to any precursor that is a preparation or mixture containing a precursor set out in Part 2 of Schedule VI to the Act if the contained precursor, either alone or with any other precursor of the same type, does not constitute more than 30% of the preparation or mixture by weight or volume, in the case of a solid or liquid, respectively.

56. A Class B precursor that is a preparation or mixture is exempt from the application of section 6 of the Act and these Regulations, except sections 80 to 82, if an exemption certificate in respect of the preparation or mixture has been issued under section 77 and is still in effect.

Limitation on Activities

57. (1) No person other than a registered dealer may produce a Class B precursor for the purpose of sale or provision.

(2) A registered dealer may import a Class B precursor.

(3) Subject to subsection (4), a registered dealer may export a Class B precursor and may possess the precursor for the purpose of the export.

(4) In the case of a country named in a table referred to in paragraph (a) or (b) and a Class B precursor identified in the table as one requiring notice of pre-exportation to that country, a registered dealer may only export the Class B precursor to the country if the registered dealer holds a Class B export permit in respect of the precursor and complies with the terms and conditions of the permit:

(a) the table entitled "Governments that have requested pre-export notifications pursuant to article 12, paragraph 10(a), of the 1988 Convention", contained in the most recent INCB annual report concerning the implementation of article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; or

(b) the table entitled *Supplementary Table of Countries Requiring Pre-Export Notification With Regard to Class B Precursors*, published by the Department of Health, as amended from time to time, listing the countries that, according to notification from the INCB to the Minister since publication of the most recent annual report referred to in paragraph (a), have made a formal request to the United Nations to receive notice of pre-exportation in respect of the shipment to the country of Class B precursors.

Registration

Eligibility

58. To be eligible to apply for registration, a person must be

- (a) an individual who ordinarily resides in Canada; or
- (b) a corporation that has its head office or a branch office in Canada.

59. (1) A registered dealer must designate a senior person in charge, who may, if appropriate, be the registered dealer, to have overall responsibility for management of the registered dealer's Class B precursor activities.

(2) A registered dealer must designate a contact person, for each site where the registered dealer conducts Class B precursor activities, to work at the site, who may, if appropriate, be the senior person in charge, and who has good knowledge of the Class B precursor activities carried out at the site and the use and handling of the relevant precursors including the risk of those precursors being diverted to an illicit market or use.

(3) The senior person in charge

(a) must be familiar with the provisions of the Act and these Regulations that apply to the registered dealer's Class B precursor activities and have sufficient knowledge concerning the use and handling of the Class B precursors dealt with by the registered dealer to which the registration applies, including the risk of those precursors being diverted to an illicit market or use, to enable them to properly perform their responsibilities; and

(b) must not have been convicted, as an adult, within the previous 10 years, of

- (i) a designated drug offence,
- (ii) a designated criminal offence, or
- (iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii).

Application

60. (1) An application for registration or to renew a registration shall be made to the Minister and contain the following information and statement:

(a) the applicant's name or, if the applicant is a corporation, their corporate name and any other name registered with a province, under which the applicant will carry out the activities set out in the application or will identify itself;

(b) the applicant's address or, if the applicant is a corporation, their head office address in Canada, if applicable;

(c) the applicant's precursor activity profile concerning Class B precursors, being

(i) the name, if any, of each Class B precursor that the applicant intends to produce for sale or provision, import, export or have in possession for export, otherwise a description of its chemical composition,

(ii) if a Class B precursor referred to in subparagraph (i) is a preparation or mixture, its product classification having regard to its intended use and the names of all precursors set out in Part 2 of Schedule VI to the Act that it contains;

(iii) the Class B precursor activity mentioned in section 57 that the applicant intends to carry out in respect of each precursor identified under subparagraphs (i),

(iv) the address of each site where the applicant intends to conduct Class B precursor activities, and

(v) the postal address of each site to which subparagraph (iv) applies, if different,

(d) the name, date of birth and gender of the senior person in charge and their telephone number, facsimile transmission number and e-mail address;

(e) for each site referred to in subparagraph (c)(iv), the name, telephone number, facsimile transmission number and e-mail address of the contact person to be reached to obtain information concerning precursor activity at the site;

(f) in the case of an application to renew a registration, the number of the registration to be renewed; and

(g) a statement that the internal controls pertaining to Class B precursors are sufficient to support a reliable system of record-keeping in respect of the precursor activities and precursor inventory applicable to the registered dealer's precursor activity profile and to permit the Minister to verify those activities.

(2) The application must

(a) be signed by the senior person in charge for the applicant ; and

(b) include a statement by the signatory that

(i) the information and documents provided in the application are correct and complete to the best of the knowledge of the signatory, and

(ii) the senior person in charge has the authority to bind the applicant.

(3) The application must be accompanied by

(a) a statement signed by the senior person in charge stating that they have not, as an adult, been convicted within the previous 10 years of

(i) a designated drug offence,

(ii) a designated criminal offence, or

(iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii);

(b) a statement signed by the senior person in charge

(i) consenting to having a criminal record check carried out for them, as an adult, in respect of the offences mentioned in paragraph (a) during the preceding 10 years,

(ii) agreeing to provide all information and to submit to any means of identification required to obtain the criminal record check, and

(iii) to pay the fee established by the *Royal Canadian Mounted Police, Criminal Record Verification for Civil Purposes Fee Regulations*; and

(c) if applicable, a copy of

(i) the certificate of incorporation or other constituting instrument for the applicant, and

(ii) any document filed with a province in which there is a site referred to in subparagraph (1)(c)(iv) that states the applicant's corporate name and any other name registered with the province under which the applicant will carry out activities in respect of precursors or will identify itself.

Additional Information

61. The Minister may, on receiving an application made under this Part, require the submission of any additional information that pertains to the information contained in the application and that is necessary for the Minister to process the application.

Registration and Certificate

62. Subject to section 63, if the requirements of section 60 are met, the Minister shall register the applicant or renew the applicant's registration, and issue a registration certificate indicating

- (a) the registration number;
- (b) the name of the registered dealer or, if the registered dealer is a corporation, its corporate name;
- (c) the applicant's address or, if the applicant is a corporation, its head office address in Canada, if applicable;
- (d) the effective date of the certificate;
- (e) the date of expiry of the certificate; and
- (f) any conditions that are necessary to
 - (i) ensure that the international obligations of Canada are respected, or
 - (ii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class B precursor being diverted to an illicit market or use.

Grounds for Refusal

63. (1) Subject to subsection (2), the Minister shall refuse to register an applicant or renew an applicant's registration if

- (a) the applicant is not eligible under section 58;
- (b) any information included in the application is false or misleading or false or falsified documents were provided in support of the application;
- (c) additional information required under section 61 has not been provided or is insufficient to process the application;
- (d) the registration would permit an activity that would not be in compliance with an international obligation of Canada;
- (e) information received from a competent authority or the United Nations raises a reasonable belief that the applicant has been involved in the diversion of a controlled substance or precursor to an illicit market or use;
- (f) the applicant is not, or within the previous 10 years has not been, in compliance with
 - (i) a provision of the Act or a regulation made or continued under the Act, or
 - (ii) a term or condition of a licence, registration certificate or permit issued to it under any regulation made or continued under the Act;
- (g) the senior person in charge mentioned in the application has been convicted, as an adult, within the previous 10 years of
 - (i) a designated drug offence,
 - (ii) a designated criminal offence, or

(iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii); or

(h) the registration would likely create a risk to public health, safety or security, including the risk of a Class B precursor being diverted to an illicit market or use.

(2) The Minister is not required to refuse to register an applicant or renew an applicant's registration under paragraph (1)(b) or (f) if the applicant

(a) does not have a history of non-compliance with the Act and any regulation made or continued under the Act; and

(b) has carried out, or signed an undertaking to carry out, specified corrective measures to ensure compliance with the Act and these Regulations.

Length of Validity

64. A registration is valid for a maximum of five years from the effective date of the registration.

Notice of Change of Information

65. (1) A registered dealer shall give notice to the Minister in writing of any change of information provided in the application for registration or any subsequent notice of change given under this subsection.

(2) Subject to subsection (5), the notice shall be given not later than 10 days after the change takes effect.

(3) If the change deals with information shown on the registration certificate, the registered dealer shall include the original certificate with the notice given under subsection (1).

(4) Subject to paragraphs 67(1)(e) and (f), if the requirements of subsections (1) to (3) are met, the Minister shall amend the registration certificate accordingly.

(5) If the change deals with the designation of a replacement for the senior person in charge, the registered dealer shall

(a) apply for the approval of the Minister before making the change; and

(b) include with the application the information mentioned in paragraph 60(1)(d) and the statements mentioned in paragraphs 60(3)(a) and (b).

(6) If the senior person in charge ceases to act in that capacity due to death or an unforeseen circumstance, the registered dealer may authorize another person who satisfies the requirements of subsection 59(3) to act as the interim senior person in charge until approval is granted by the Minister concerning the designation of a replacement for the senior person in charge.

(7) A registered dealer shall advise the Minister within 10 days if the senior person in charge for the site ceases to act in that capacity.

Revocation or Suspension

66. The Minister shall revoke a registration and the corresponding registration certificate if the registered dealer so requests or notifies the Minister that the certificate has been lost or stolen.

67. (1) Subject to subsection (2) and subsection 84(1), the Minister shall revoke a registration and the corresponding registration certificate if

(a) the registered dealer is no longer an eligible person under section 58;

(b) the registration was made on the basis of false or misleading information or false or falsified documents;

- (c) the registered dealer has contravened the Act or any regulation under the Act, a condition of the registration or a provision of a registration certificate, a licence or an import or export permit issued under any regulation under the Act;
 - (d) it is discovered that the senior person in charge has been convicted, as an adult, within the previous 10 years of
 - (i) a designated drug offence,
 - (ii) a designated criminal offence, or
 - (iii) an offence committed outside of Canada that, if committed in Canada, would have constituted an offence referred to in subparagraph (i) or (ii);
 - (e) information received from a competent authority or the United Nations raises a reasonable belief that the registered dealer has been involved in the diversion of a controlled substance or precursor to an illicit market or use; or
 - (f) the registration would permit, having regard to an activity mentioned in a notice of change of information, an activity that would not be in compliance with an international obligation of Canada.
- (2) The Minister is not required to revoke a registration and the corresponding certificate under paragraph (1)(b) or (c) if the registered dealer
- (a) does not have a history of non-compliance with the Act and any regulation made or continued under the Act; and
 - (b) has carried out, or signed an undertaking to carry out, corrective measures to ensure compliance with the Act and these Regulations.
- (3) The Minister may revoke a registration and the corresponding certificate if the registered dealer fails to comply with the decision of the Minister to suspend the registration and certificate under section 68 or if the situation giving rise to the suspension is not rectified.
68. The Minister shall suspend a registration and the corresponding certificate without prior notice if the suspension is necessary to guard against a risk to public health, safety or security, including the risk of a Class B precursor being diverted to an illicit market or use.

Export

Application for Export Permit

69. (1) An application for a Class B export permit shall be made by a registered dealer to the Minister in writing and contain the following information and statements:
- (a) the registered dealer's name and address and the number of their registration certificate;
 - (b) the business number assigned to the registered dealer by the Minister of National Revenue;
 - (c) for the Class B precursor sought to be exported
 - (i) its name, if any, otherwise a description of its chemical composition, and its Harmonization System Code,
 - (ii) if it is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 2 of Schedule VI to the Act that it contains,

- (iii) the quantity sought to be exported, and in the case of a preparation or mixture, the quantity of all precursors set out in Part 2 of Schedule VI to the Act that it contains, and
 - (iv) in the case of a raw material, its purity;
 - (d) the name of the importer and their address in the country of final destination;
 - (e) the proposed means of transport and the name of any country of transit or transshipment;
 - (f) the name of the carrier that is proposed to transport the precursor through the port of exit;
 - (g) the port of exit;
 - (h) the proposed date of export;
 - (i) the name and address of the customs broker for the applicant, if any;
 - (j) a statement by the registered dealer that to the best of their knowledge the shipment would not contravene the laws of the country of final destination or any country of transit or transshipment; and
 - (k) a statement that the registered dealer consents to the disclosure of information contained in the application to the INCB and the competent authority in the country of final destination for the purpose of verifying information contained in the application.
- (2) The application must
- (a) be signed by the senior person in charge; and
 - (b) include a statement that the information and statements provided in the application are correct and complete to the best of the knowledge of the signatory.
- (3) The application may deal with more than one Class B precursor for the same shipment.

Issuance of Export Permit

70. (1) Subject to section 71, if the requirements of section 69 are met, the Minister shall issue to the applicant a Class B export permit that indicates

- (a) the permit number;
- (b) the information referred to in paragraphs 69(1)(a) to (i);
- (c) the effective date;
- (d) the date of expiry, being the earliest of
 - (i) a date determined by the Minister that is not more than 180 days after the effective date,
 - (ii) the date of expiry of the registration of the applicant, and
 - (iii) the date of expiry for any import authorization issued by the competent authority in the country of final destination in respect of the importation of the Class B precursor; and
- (e) any conditions that are necessary to
 - (i) ensure that the international obligations of Canada are respected,

(ii) ensure compliance with a requirement of the country of final destination or any country of transit or transshipment, or

(iii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class B precursor being diverted to an illicit market or use.

(2) A Class B export permit is valid until the earliest of

(a) the expiry date set out in the permit;

(b) the suspension or revocation under section 66, 67 or 68 of the registration; or

(c) the suspension or revocation under section 73, 74 or 75 of the export permit.

Grounds for Refusal

71. The Minister shall refuse to issue a Class B export permit if

(a) the applicant is not a registered dealer or is a registered dealer whose registration will expire prior to the proposed date of export;

(b) a circumstance described in any of paragraphs 63(1)(b) to (f) and (h), with any modifications that the circumstances require, exists with respect to the permit application;

(c) the Minister has reasonable grounds to believe that the export shipment to which the permit would apply would contravene the laws of the country of final destination or any country of transit or transshipment;

(d) within seven days after the Minister sends pre-export notification of the proposed export to the competent authority in the country of final destination, the Minister has received written notice from the authority that it has refused to authorize the proposed import or that it objects to the import; or

(e) the proposed shipment would not be in conformity with an import authorization or letter of non-objection issued by the competent authority in the country of final destination.

Surrender of Export Permit

72. The holder of a Class B export permit shall ensure that

(a) an official copy of the permit is attached to the Class B precursor shipment; and

(b) an official copy of the permit is surrendered to a customs officer at the customs office at the port of exit set out in the permit.

Revocation or Suspension of Permit

73. The Minister shall revoke a Class B export permit at the request of the holder or if the holder informs the Minister that the permit has been lost or stolen.

74. (1) Subject to subsection (2), the Minister shall revoke a Class B export permit in accordance with subsection 84(1) if a circumstance described in any of paragraphs 63(1)(a) to (g) exists with respect to the registration of the holder of the permit.

(2) The Minister is not required to revoke a Class B export permit under subsection (1) if the holder of the permit meets the conditions referred to in subsection 63(2).

(3) The Minister may revoke a Class B export permit if the holder fails to comply with the decision of the Minister to suspend the permit under section 75 or if the situation giving rise to the suspension is not rectified.

75. The Minister shall suspend a Class B export permit without prior notice if

- (a) the registration certificate of the holder of the permit has expired or has been suspended or revoked;
- (b) the suspension is necessary to protect public health, safety or security, including preventing a Class B precursor from being diverted to an illicit market or use;
- (c) the shipment would not be in conformity with an import authorization or letter of non-objection issued by the competent authority in the country of final destination; or
- (d) it is discovered that the export would contravene the laws of the country of final destination or a country of transit or transshipment.

Exemption for Preparations and Mixtures

Application

76. (1) A person conducting a Class B precursor activity referred to in subsections 57(1) or (4) in respect of a Class B precursor that is a preparation or mixture or a person desiring to conduct such an activity may apply to have the preparation or mixture exempted from the application of these Regulations by submitting an application to the Minister containing the following information and statements:

- (a) the applicant's name or, if the applicant is a corporation, their corporate name;
- (b) if the applicant is a registered dealer, the number of their registration certificate;
- (c) in respect of the preparation or mixture for which the application is made
 - (i) its name, if any, otherwise a description of its chemical composition, and its brand name, if any,
 - (ii) its qualitative and quantitative composition including all chemical ingredients,
 - (iii) its physical and chemical properties and any difference between those properties and the physical and chemical properties of the chemical ingredients that are precursors set out in Part 2 of Schedule VI to the Act,
 - (iv) the type of analyses used to evaluate its purity and stability, and
 - (v) its intended use;
- (d) a statement by the applicant that the preparation or mixture is made in such a way that no precursor set out in Part 2 of Schedule VI to the Act contained in it can be readily extracted having regard to the complexity and cost of extraction and that the preparation or mixture cannot be used in the production of a controlled substance; and
- (e) a statement by the applicant of the justification for the exemption and identifying the scientific principles and any other information in support of the statement under paragraph (d).

(2) The application must

- (a) be signed by
 - (i) a person employed or engaged by the applicant having supervisory responsibilities pertaining to the preparation or mixture and sufficient knowledge to confirm the information set out in the application, or
 - (ii) the senior person in charge for the site, if the applicant is a registered dealer; and

(b) include a statement that all information set out in the application is correct and complete to the best of the knowledge of the signatory.

Exemption and Issuance of Certificate

77. Subject to section 78, if the requirements of section 76 are met, the Minister shall exempt the precursor that is a preparation or mixture for which the exemption was sought from the application of section 6 of the Act and these Regulations, except sections 80 to 82, and issue to the applicant an exemption certificate for the preparation or mixture that indicates

- (a) the certificate number;
- (b) the name of the exempted preparation or mixture, if any, otherwise a description of its chemical composition, and its brand name, if any;
- (c) the name of the applicant or, if the applicant is a corporation, their corporate name;
- (d) the effective date; and
- (e) any conditions that are necessary to
 - (i) ensure that international obligations of Canada are respected, and
 - (ii) ensure compliance with the Act and these Regulations, including reducing the risk of a Class B precursor being diverted to an illicit market or use.

Grounds for Refusal

78. The Minister shall refuse to exempt a precursor that is a preparation or mixture if, according to the information provided and scientific data or other information or evidence available, a precursor set out in Part 2 of Schedule VI to the Act that is contained in the preparation or mixture can be readily extracted having regard to the complexity and cost of extraction or the preparation or mixture can be used in the production of a controlled substance.

Document Accompanying Shipment

79. The exporter of a precursor that is a preparation or mixture that is exempt under sections 56 and 77 must ensure that the shipment is accompanied by a document stating

- (a) that the preparation or mixture is exempt from the application of these Regulations according to sections 56 and 77; and
- (b) the number of the exemption certificate that applies to the preparation or mixture.

Revocation and Suspension

80. The Minister shall revoke the exemption and the corresponding certificate at the request of the holder.

81. (1) The Minister shall revoke an exemption and the corresponding certificate in accordance with subsection 84(1) if

- (a) the exemption was granted on the basis of false or misleading information, or false or falsified documents; or
- (b) the exemption has been the subject of a suspension under paragraph 82(a) and subsection 84(2) which has not been complied with.

(2) The Minister may revoke an exemption and the corresponding certificate if the holder fails to comply with the decision of the Minister to suspend the exemption under section 82 or if the situation giving rise to the suspension is not rectified.

82. The Minister shall suspend an exemption and the corresponding certificate without prior notice if

- (a) new scientific evidence or other new information demonstrates that a precursor set out in Part 2 of Schedule VI to the Act that is contained in the preparation or mixture to which the exemption applies can be readily extracted having regard to the complexity and cost of extraction or that the preparation or mixture may be or has been used in the production of a controlled substance; or
- (b) the suspension is necessary to protect public health, safety or security, including preventing a Class B precursor from being diverted to an illicit market or use.

PART 3

GENERAL PROVISIONS

Restricted Access to Class A Precursors

83. Every licensed dealer shall restrict access to locations at the licensed site where Class A precursors are kept to persons whose presence is required by their work responsibilities.

Notice of Refusal, Revocation or Suspension

84. (1) If the Minister proposes to refuse to issue, amend or renew, or proposes to revoke, a licence, a registration, an exemption and the corresponding certificate, an import or export permit or a permit for transit or transshipment, issued under these Regulations, the Minister shall provide the applicant or the holder with

- (a) a notice of the intended action and a written report that sets out the reasons for the proposed refusal or revocation; and
- (b) an opportunity to be heard within a reasonable time in respect of the proposed refusal or revocation.

(2) A decision of the Minister to suspend a licence, a registration, an exemption and the corresponding certificate, an import or export permit or a permit for transit or transshipment, issued under these Regulations, takes effect as soon as the Minister notifies the holder of the decision and provides a written report of the reasons for the suspension.

(3) A person who receives a notice of suspension referred to in subsection (2) may, within 10 days after receiving the notice, provide the Minister with reasons why the suspension is unfounded.

Books, Registers, Electronic Data and Other Records

85. (1) A licensed dealer shall keep at the licensed site books, registers, electronic data and other records pertaining to each Class A precursor brought to the site, produced or packaged at the site, used at the site for their own purposes, destroyed at the site or removed from the site, showing

- (a) in respect of the precursor
 - (i) its name, if any, otherwise a description of its chemical composition,
 - (ii) if it is a salt, the name of the salt, and
 - (iii) if it is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 1 of Schedule VI to the Act that it contains;
- (b) the type of activity pertaining to the precursor, whether purchase, receipt, production, packaging, use for their own purposes, sale, provision, sending, delivering, transporting, importation, exportation or destruction;

- (c) the quantity of precursor and, in the case of a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains;
 - (d) the date the activity occurred; and
 - (e) in the case of a precursor
 - (i) purchased or otherwise acquired, the name, address and telephone number of the person from whom the precursor was purchased or acquired,
 - (ii) sold or provided, sent, delivered or transported, the name and address of the purchaser or recipient,
 - (iii) that is imported, the name and address of the exporter in the country of export and the name of any country of transit or transshipment, or
 - (iv) that is exported, the name and address of the importer in the country of final destination and the name of any country of transit or transshipment.
- (2) A licensed dealer shall keep in their books and registers all end-use declarations obtained under section 8.
- (3) A licensed dealer shall keep, at the licensed site, a record showing, for each day on which a person has access to a place at the site where a Class A precursor is kept, the person's name and the date of access.
- (4) With respect to each Class B precursor brought to a site following import, produced at the site or removed from the site for export, a registered dealer shall keep at the site books, registers, electronic data and other records showing
- (a) in respect of the precursor,
 - (i) its name, if any, otherwise a description of its chemical composition, and
 - (ii) if it is a preparation or mixture, its brand name, if any, and the name of all precursors set out in Part 2 of Schedule VI to the Act that it contains;
 - (b) the type of activity pertaining to the precursor, whether production for sale or provision, import or export;
 - (c) the date the activity occurred; and
 - (d) in the case of a precursor
 - (i) that is imported, the name and address of the exporter in the country of export and the name of any country of transit or transshipment, or
 - (ii) that is exported, the name and address of the importer in the country of final destination and the name of any country of transit or transshipment.
- (5) Information referred to in subsections (1) to (4) and a record referred to in section 86 shall be retained for at least two years after the information was recorded or the record was made, except that an end-use declaration shall be kept for at least two years after the calendar year in which it was obtained.
- (6) A licensed dealer and a registered dealer shall make the records and documents required to be kept under this Part available for inspection by an inspector.
- (7) A licensed dealer and a registered dealer, if requested by the Minister in writing, shall provide to the Minister a copy of any record or document required to be kept under this Part.

Suspicious Transactions

86. (1) A licensed dealer and a registered dealer shall, on becoming aware of the transaction, make a record of every transaction occurring in the course of their activities in respect of which there are reasonable grounds to suspect that the transaction is related to the diversion of a precursor to an illicit market or use.

(2) For the purpose of subsection (1), the factors to be considered in assessing if a transaction or group of transactions give rise to reasonable grounds to suspect that the transaction or group of transactions is related to the diversion of a precursor to an illicit market or use include

(a) the composition and chemical properties of the precursor involved, the illicit use that may be made of it and the risk of its diversion to an illicit market or use having regard to those factors;

(b) the quantity of the precursor involved and, in the case of a preparation or mixture, the quantity of all precursors set out in Parts 1 or 2 of Schedule VI to the Act that it contains;

(c) the intended use of the precursor stated by the other party to the transaction;

(d) the proposed means of transportation, route of delivery, place of origin or place of destination;

(e) the method of payment involved; and

(f) in the case of prior dealings between the dealer and the other party to the transaction, any suspicious departure from the pattern of the prior dealings.

(3) A suspicious transaction record shall include

(a) the name, address, telephone number and position with the dealer of the individual making the record;

(b) the identification of the other party to the transaction;

(c) details of the transaction involved, including

(i) the date and time of the transaction,

(ii) the type of transaction, and

(iii) the name and quantity of the precursor and, in the case of a preparation or mixture, the quantity of all precursors set out in Parts 1 or 2 of Schedule VI to the Act that it contains; and

(d) a detailed description of the reasons for suspecting that the transaction is related to the diversion of a precursor to an illicit market or use.

(4) No licensed dealer or registered dealer shall disclose that they have made a suspicious transaction record under this section or disclose the contents of the record, with the intent to prejudice a criminal investigation, whether or not a criminal investigation has begun.

(5) No criminal or civil proceedings lie against a licensed dealer or registered dealer for making a suspicious transaction record under this section in good faith.

(6) The Minister is authorized to receive information that is provided voluntarily by a dealer referred to in subsection (1) in respect of a transaction mentioned in that subsection.

Annual Report

87. A licensed dealer shall make a report to the Minister, in paper or electronic form, within three months after the end of each calendar year, showing

(a) the name and total quantity of each Class A precursor purchased, received, produced, used for their own purposes, sold, provided, imported, exported or destroyed during the calendar year; and

(b) the quantity of each Class A precursor in inventory at the site at the end of the calendar year.

Unauthorized Changes

88. No one may add to, delete or obliterate from, or alter in any other way, a licence, a registration or exemption certificate, an import or export permit or a permit for transit or transshipment, issued under these Regulations.

Return of Documents

89. (1) If a licence or a registration or exemption certificate is renewed, the holder shall, immediately after the effective date of the replacing document, return the replaced document to the Minister.

(2) If a licence, a registration or exemption certificate, an import or export permit or a permit for transit or transshipment, issued under these Regulations, expires without being renewed or is revoked, the holder shall, within 30 days after the expiry or revocation, return the licence, registration or exemption certificate or permit to the Minister.

Security and Reporting of Loss or Theft

90. (1) The holder of a licence, a registration or exemption certificate or an import or export permit issued or granted under these Regulations shall maintain measures necessary to ensure the security of any precursor in their possession, as well as the licence, certificate or permit.

(2) In the case of the theft or loss of a precursor or their licence, registration or exemption certificate or import or export permit issued under these Regulations, the licensed dealer or registered dealer

(a) shall provide notice of the occurrence to a member of a police force within 24 hours after becoming aware of the occurrence; and

(b) shall provide notice of the occurrence to the Minister, in writing, within 72 hours after becoming aware of the occurrence and confirm that the notice required under paragraph (a) has been provided.

Disclosure of Information by the Minister

91. (1) The Minister may, for the purpose of verifying whether an import or export of a Class A precursor or an export of a Class B precursor complies with an import or export permit issued under these Regulations, communicate the following information to a customs officer in Canada:

(a) the name and address of the holder of the permit and the number of the permit;

(b) the type of permit;

(c) the business registration number assigned to the holder of the permit by the Minister of National Revenue;

(d) in respect of the precursor that may be imported or exported under the permit

(i) its name, if any, otherwise a description of its chemical composition,

(ii) if it is a salt, the name of the salt,

(iii) if it is a preparation or mixture, its brand name, if any, and the name of all precursors set out in Parts 1 or 2 of Schedule VI to the Act that it contains,

(iv) the quantity sought to be imported or exported and, if the precursor is a preparation or mixture, the quantity of all precursors set out in Parts 1 or 2 of Schedule VI to the Act that it contains, and

(v) in the case of a raw material, its purity;

(e) the duration of validity of the permit;

(f) the name and address of the importer in the country of final destination or of the exporter in the country of origin;

(g) the port of entry to or exit from Canada;

(h) the proposed date of import or export;

(i) the proposed means of transportation;

(j) the name of the proposed carrier that is to bring the precursor to the port of entry or the port of exit in Canada, whichever applies;

(k) the name and address of the customs broker involved, if any;

(l) any conditions that apply to the permit; and

(m) whether the permit has been revoked or suspended.

(2) The Minister may, for the purpose of the administration of these Regulations, communicate to a customs officer in Canada the name of an applicant who has been refused a permit to export a precursor, the precursor involved and the date of the refusal.

(3) The Minister may, for the purpose of verifying whether the transportation of a Class A precursor in transit through Canada or the transshipment of a Class A precursor in Canada complies with a permit for transit or transshipment issued under these Regulations, communicate the following information to a customs officer in Canada:

(a) the number of the permit;

(b) the type of permit;

(c) the name and address of the exporter in the country of export;

(d) in respect of the Class A precursor that may be transported in transit or transhipped under the permit

(i) its name, if any, otherwise a description of its chemical composition,

(ii) if it is a salt, the name of the salt,

(iii) if the precursor is a preparation or mixture, its brand name, if any, and the names of all precursors set out in Part 1 of Schedule VI to the Act that it contains,

(iv) the quantity sought to be transported in transit or transhipped and, if the precursor is a preparation or mixture, the quantity of all precursors set out in Part 1 of Schedule VI to the Act that it contains; and

(v) in the case of a raw material, its purity;

- (e) the duration of validity of the permit;
 - (f) the countries of export and final destination and the numbers and expiry dates of the export and import authorizations issued by a competent authority in each of those countries, if applicable;
 - (g) the ports of entry and exit in Canada;
 - (h) the expected date of transit or transshipment in Canada;
 - (i) each means of transportation that is proposed to be used in Canada for the precursor;
 - (j) the name and address of the person who is responsible for the precursor while it is in Canada;
 - (k) in the case of a transshipment, for every place in Canada where the precursor will be stored during the transshipment, the address and the expected duration of storage; and
 - (l) whether the permit has been revoked or suspended.
- (4) The Minister may, for the purpose of verifying whether a precursor that is a preparation or mixture may, by virtue of an exemption certificate issued under these Regulations, be imported, exported, transported in transit or transhipped without the appropriate permit under these Regulations, communicate the following information to a customs officer in Canada:
- (a) the number of the certificate;
 - (b) the name of the exempted preparation or mixture, if any, otherwise a description of its chemical composition, and its brand name, if any;
 - (c) the name of the person who applied for the exemption, or if a corporation, their corporate name;
 - (d) the effective date of the certificate;
 - (e) any conditions that apply to the certificate; and
 - (f) whether the certificate has been revoked or suspended.
- (5) The Minister may, for the purpose of enabling Canada to fulfil its international obligations under section 12 of the *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*, communicate the following information to the INCB or a competent authority for the administration of these Regulations:
- (a) information pertaining to an activity authorized by a licence, registration or exemption certificate or permit issued or granted to a person under these Regulations, including the person's name, the nature of the authorized activity and any applicable conditions; and
 - (b) information in respect of precursor activities pertaining to a precursor obtained under the Act or these Regulations, including
 - (i) information contained in the books, records and other documents mentioned in subsections 85(1) to (4),
 - (ii) information provided in an annual report made under section 87, and
 - (iii) information obtained by an inspector under section 31 of the Act.
- (6) The Minister is authorized to receive, for the purpose of the administration of these Regulations, information provided by the INCB or a competent authority.

TRANSITIONAL AND COMING INTO FORCE

Transitional

92. During the year following the day these Regulations are published in the *Canada Gazette*, Part II, the maximum package size set out in column 2 of the schedule for the precursors listed in column 1 for items 4, 5 and 17 does not apply to the sale or provision of any of these precursors, or any preparation or mixture containing any of them, if the precursor or the preparation or mixture was produced and packaged before the day these Regulations are published in the *Canada Gazette*, Part II and, in respect of the sale or provision, the person who makes the sale or provision

- (a) is deemed to conform with paragraph 5(1)(c) regardless of the package size; and
- (b) does not require an end-use declaration under section 8.

Coming into Force

93. (1) Subject to subsections (2) to (4), these Regulations come into force on the later of January 1, 2003 and the expiry of 90 days after the day on which these Regulations are published in the *Canada Gazette*, Part II.

(2) Subsections 6(1) and (2) and sections 7, 9, 12 to 24 and 47 come into force

(a) in respect of a person who produces, packages, imports or exports a Class A precursor, on the later of January 1, 2003 and the expiry of 90 days after the day on which these Regulations are published in the *Canada Gazette*, Part II; and

(b) in respect of a person who carries out any other activity pertaining to a Class A precursor, on the later of July 1, 2003 and the expiry of 270 days after the day on which these Regulations are published in the *Canada Gazette*, Part II.

(3) Section 8 comes into force on July 1, 2003.

(4) Sections 55 to 82 come into force on January 1, 2004.

SCHEDULE (Sections 5, 8 and 92)

Item	Precursor set out in Part 1 of Schedule VI to the Act	Maximum Quantity (expressed as an absolute amount or per package)
1.	Acetic anhydride	1000 kg
2.	N-Acetylanthranilic acid (2-acetamidobenzoic acid)	1 kg
3.	Anthranilic acid (2-aminobenzoic acid)	1 kg
4.	Ephedra	20 g per package
5.	Ephedrine (erythro-2-(methylamino)-1-phenylpropan-1-ol)	0.4 g per package
6.	Ergometrine (9,10-didehydro-N-(2-hydroxy-1-methylethyl)-6-methylergoline-8-carboxamide)	0
7.	Ergotamine (12'-hydroxy-2'-methyl-5'-(phenylmethyl)ergotaman-3',6',18-trione)	0
8.	Isosafrole (5-(1-propenyl)-1,3-benzodioxole)	0.5 kg
9.	Lysergic acid (9,10-didehydro-6-methylergoline-8-carboxylic acid)	0
10.	3,4-Methylenedioxyphenyl-2-propanone (1-(1,3-benzodioxole)-2-propanone)	0
11.	Norephedrine (Phenylpropanolamine)	0

Item	Precursor set out in Part 1 of Schedule VI to the Act	Maximum Quantity (expressed as an absolute amount or per package)
12.	Phenylacetic acid	1 kg
13.	1-Phenyl-2-propanone	0
14.	Piperidine	0.5 kg
15.	Piperonal (1,3-benzodioxole-5-carboxaldehyde)	0.5 kg
16.	Potassium permanganate	50 kg
17.	Pseudoephedrine (threo-2-(methylamino)-1-phenyl- propan-1-ol)	3 g per package
18.	Safrole (5-(2-propenyl)-1,3-benzodioxole)	0.25 kg

E/NL.2004/30

Registration

SOR/2003-32

30 January, 2003

CONTROLLED DRUGS AND SUBSTANCES ACT

ORDER AMENDING SCHEDULES II TO V TO THE CONTROLLED DRUGS AND SUBSTANCES ACT¹

P.C. 2003-63

30 January, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 60 of the *Controlled Drugs and Substances Act*² deeming that it is necessary in the public interest, hereby makes the annexed *Order Amending Schedules II to V to the Controlled Drugs and Substances Act*.

ORDER AMENDING SCHEDULES II TO V TO THE CONTROLLED DRUGS AND SUBSTANCES ACT

AMENDMENTS

1. Item 1 of Schedule II to the *Controlled Drugs and Substances Act*³ is amended by adding the following after subitem (7):

(7.1) 3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol (DMHP)

2. Item 1 of Schedule III to the Act is amended by adding the following after subitem (20):

- (21) N-hydroxy-3,4-methylenedioxyamphetamine (N-[amethyl-3,4-(methylenedioxy)phenethyl] hydroxylamine)
- (22) 3,4,5-trimethoxyamphetamine (3,4,5-trimethoxy -a-methylbenzeneethanamine)

3. Item 16 of Schedule III to the Act is replaced by the following:

16. Rolicyclidine (1-(1-phenylcyclohexyl) pyrrolidine) and any salt thereof

4. Item 20 of Schedule III to the French version of the Act is replaced by the following:

20. F&n6tylline (d,l-dihydro-3,7 dimethyl-1,3 [[(methyl-1 phenyl-2 6thyl)amino]-2 ethyl]-7 1H-purinedione-2,6) et ses sels

5. Schedule III to the Act is amended by adding the following after item 26:

27. Aminorex (4,5-dihydro-5-phenyl-2-oxazolamine) and any salt thereof
28. Etryptamine (3-(2-aminobutyl)indole) and any salt thereof

² Original note: S.C. 1996, c.19

³ Original note: S.C. 1996, c.19

- 29. Lefetamine ((-)-N,N-dimethyl-aphenylbenzeneethanamine) and any salt thereof
- 30. Mesocarb (3-(a-methylphenethyl)-N(phenylcarbamoyl)sydnone imine) and any salt thereof
- 31. Zipeprol (4-(2-methoxy-2-phenylethyl)-a(methoxyphenylmethyl)-1-piperazineethanol) and any salt thereof

6. Schedule IV to the Act is amended by adding the following in numerical order:

- 25.1 Pemoline (2-amino-5-phenyl-oxazolin-4-one) and any salt thereof
- 26. Pyrovalerone (4'-methyl-2-(1-pyrrolidiny) valerophenone) and any salt thereof

7. Item 3 of Schedule V to the Act is repealed.

COMING INTO FORCE

8. This Order comes into force on the day on which it is registered.

E/NL.2004/31

Registration

SOR/2003-33

30 January, 2003

CONTROLLED DRUGS AND SUBSTANCES ACT

REGULATIONS AMENDING THE NARCOTIC CONTROL REGULATIONS

P.C. 2003-64

30 January, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,¹ hereby makes the annexed *Regulations Amending the Narcotic Control Regulations*:²

REGULATIONS AMENDING THE NARCOTIC CONTROL REGULATIONS

AMENDMENT

1. Item 17 of the schedule to the *Narcotic Control Regulations*³ is amended by adding the following after subitem (7):

(7.1) 3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol (DMHP)

COMING INTO FORCE

2. These Regulations come into force on the day on which they are registered.

¹ Original note: S.C. 1996, c.19

Note by the Secretariat: E/NL.2004/21

² Note by the Secretariat: E/NL.2004/26

³ Original note: C.R.C., c. 1041

E/NL.2004/32

Registration
SOR/2003-35

30 January, 2003

CONTROLLED DRUGS AND SUBSTANCES ACT

**REGULATIONS AMENDING REGULATIONS EXEMPTING CERTAIN
PRECURSORS AND CONTROLLED SUBSTANCES FROM THE APPLICATION OF
THE CONTROLLED DRUGS AND SUBSTANCES ACT**

P.C. 2003-66

30 January, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*¹ hereby makes the annexed *Regulations Amending the Regulations Exempting Certain Precursors and Controlled Substances from the Application of the Controlled Drugs and Substances Act*.

**REGULATIONS AMENDING THE REGULATIONS EXEMPTING CERTAIN
PRECURSORS AND CONTROLLED SUBSTANCES FROM THE APPLICATION OF
THE CONTROLLED DRUGS AND SUBSTANCES ACT**

AMENDMENTS

1. Items 3 to 5 of Schedule I to the *Regulations Exempting Certain Precursors and Controlled Substances from the Application of the Controlled Drugs and Substances Act*² are repealed.
2. Item 7 of Schedule I to the Regulations is repealed.
3. Item 20 of Schedule I to the Regulations is repealed.

COMING INTO FORCE

4. These Regulations come into force on the day on which they are registered.

¹ Original Note: S.C. 1996, c.19
Note by the Secretariat: E/NL.2004/21

² Original Note: SOR/97-229

E/NL.2004/33

Registration

SOR/2003-38 30

January, 2003

CONTROLLED DRUGS AND SUBSTANCES ACT

REGULATIONS AMENDING BENZODIAZEPINES AND OTHER TARGETED SUBSTANCES REGULATIONS (1091)

P.C. 2003-69 30 January, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,¹ hereby makes the annexed *Regulations Amending the Benzodiazepines and Other Targeted Substances Regulations (1091)*.

REGULATIONS AMENDING THE BENZODIAZEPINES AND OTHER TARGETED SUBSTANCES REGULATIONS (1091)

AMENDMENTS

1. The title of the Benzodiazepines and Other Targeted Substances Regulations (1091)² is replaced by the following:

BENZODIAZEPINES AND OTHER TARGETED SUBSTANCES REGULATIONS

2. The definition "Security Directive" in subsection 1(1) of the Regulations is replaced by the following:

"Security Directive" means the *Directive on Physical Security Requirements for Controlled Substances (Security Requirements for Licensed Dealers for the Storage of Controlled Substances)* published by the Department, as amended from time to time.

3. Part 1 of Schedule 1 to the Regulations is amended by adding the following after item 11:

¹ Original note: S.C. 1996, c.19
Note by the Secretariat: E/NL.2004/21

² Original note: SOR/2000-217

Item	Name
12.	Zolpidem (N,N,6-trimethyl-2-(4-methylphenyl)imidazo[1,2-a]pyridine-3-acetamide) and any salt thereof

4. Schedule 2 to the Regulations is amended by adding the following after item 45:

Item	Specified Name	Chemical Name
46.	Zolpidem	N,N,6-trimethyl-2-(4-methylphenyl)imidazo[1,2-a]pyridine-3-acetamide

COMING INTO FORCE

5. These Regulations come into force on the day on which they are registered.

E/NL.2004/34

Registration

SOR/2003-37

30 January, 2003

CONTROLLED DRUGS AND SUBSTANCES ACT

ORDER AMENDING SCHEDULE IV TO THE CONTROLLED DRUGS AND SUBSTANCES ACT¹

P.C. 2003-68

30 January, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 60 of the *Controlled Drugs and Substances Act*,² deeming that it is necessary in the public interest, hereby makes the annexed *Order Amending Schedule IV to the Controlled Drugs and Substances Act*.

ORDER AMENDING SCHEDULE IV TO THE CONTROLLED DRUGS AND SUBSTANCES ACT

AMENDMENT

1. Schedule IV to the *Controlled Drugs and Substances Act*³ is amended by adding the following after item 24:

25. Zolpidem (N,N,6-trimethyl-2-(4-methylphenyl)imidazo [1,2-a]pyridine- 3-acetamide) and any salt thereof

COMING INTO FORCE

2. This Order comes into force on the day on which it is registered.

¹ Note by the Secretariat: E/NL.2004/21

² Original note: S.C. 1996, c.19

³ Original note: S.C. 1996, c.19

E/NL.2004/35

SOR/2003-387

3 December, 2003

CONTROLLED DRUGS AND SUBSTANCES ACT

REGULATIONS AMENDING THE MARIHUANA MEDICAL ACCESS REGULATIONS

P.C. 2003-1908 3 December, 2003

Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 55(1) of the *Controlled Drugs and Substances Act*,¹ hereby makes the annexed *Regulations Amending the Marihuana Medical Access Regulations*.

**REGULATIONS AMENDING THE MARIHUANA MEDICAL ACCESS REGULATIONS
AMENDMENTS**

1. Subsection 4(2) of the *Marihuana Medical Access Regulations*² is replaced by the following:

- (2) An application under subsection (1) shall contain
 - (a) a declaration of the applicant;
 - (b) a medical declaration that is made
 - (i) in the case of an application based on a category 1 symptom, by the medical practitioner of the applicant, or
 - (ii) in the case of an application based on a category 2 or 3 symptom, by a specialist; and
 - (c) two copies of a current photograph of the applicant.

2. (1) Paragraph 5(1)(e) of the Regulations is replaced by the following:

- (e) that the authorization is sought in respect of marihuana to be
 - (i) produced by the applicant or a designated person, in which case the designated person must be named, or
 - (ii) obtained from a medical practitioner under section 70 or obtained under section 70.1 from a licensed dealer producing marihuana under contract with Her Majesty in right of Canada;

(2) Paragraph 5(1)(f) of the English version of the Regulations is replaced by the following:

¹ Original note: S.C. 1996, c.19
Note by the Secretariat: E/NL.2004/21
² Original note: SOR/2001-227

- (f) that the applicant is aware that no notice of compliance has been issued under the *Food and Drug Regulations*³ concerning the safety and effectiveness of marihuana as a drug and that the applicant understands the significance of that fact; and
- 3. Section 7 of the Regulations is repealed.
- 4. Section 8 of the Regulations is replaced by the following:
 - 8 A medical declaration under section 6 must be dated and signed by the medical practitioner or specialist making it and must attest that the information contained in the declaration is correct and complete.
- 5. The portion of section 10 of the Regulations before paragraph (a) is replaced by the following:
 - 10. The photograph required under paragraph 4(2)(c) must clearly identify the applicant and must
- 6. (1) Subsection 12(1) of the English version of the Regulations is amended by adding the word "or" at the end of paragraph (b) and by striking out the word "or" at the end of paragraph (c).
 - (2) Paragraph 12(1)(d) is repealed.
- 7. (1) Paragraph 14(1)(b) of the Regulations is replaced by the following:
 - (b) the material required under sections 4 to 10.
 - (2) Subsection 14(2) of the Regulations is replaced by the following:
 - (2) For the purpose of paragraph (1)(b), a photograph referred to in paragraph 4(2)(c) is required only with every second renewal application.
- 8. (1) Paragraphs 34(1)(d) and (e) of the Regulations are replaced by the following:
 - (d) subject to subsection (1.1), if the site specified in the licence where dried marihuana may be kept is different from the place where the person who applied for the licence ordinarily resides, to send or transport directly from that site to the place of residence a quantity of dried marihuana not exceeding the maximum quantity specified in the authorization to possess on the basis of which the licence was issued; and
 - (e) to provide or deliver to the person who applied for the licence a quantity of dried marihuana not exceeding the maximum quantity specified in the authorization to possess on the basis of which the licence was issued.
- (2) Section 34 of the Regulations is amended by adding the following after subsection (1):
 - (1.1) A holder of a designated-person production licence sending dried marihuana under paragraph 34(1)(d) shall
 - (a) securely pack the marihuana in a package that
 - (i) prevents the contents from being identified without the package being opened, and

³ Note by the Secretariat: E/NL.1980/48

- (ii) (ii) is sealed so that the package cannot be opened without the seal being broken; and
 - (b) use a method of sending that involves
 - (i) a means of tracking the package during transit,
 - (ii) (ii) obtaining a signed acknowledgment of receipt by the holder of the authorization to possess, and
 - (iii) (iii) safekeeping of the package during transit.
 - (3) Subsection 34(2) of the Regulations is repealed.
 - 9. (1) Paragraph 41(b) of the Regulations is repealed.
 - (2) Section 41 of the Regulations is amended by adding the following before paragraph (c):
 - (b.1) if the designated person would be the holder of more than one licence to produce; or
 - 10. Section 54 of the Regulations is repealed.
 - 11. The Regulations are amended by adding the following before section 55:
 - 54.1 The holder of a licence to produce shall not produce marihuana in common with more than two other holders of licences to produce.
 - 12. Section 56 of the Regulations and the heading before it are repealed.
 - 13. Paragraph 62(2)(d) of the Regulations is replaced by the following:
 - (d) the photograph submitted under paragraph 4(2)(c) or section 14 as part of the application for the authorization or renewal is not an accurate representation of the holder of the authorization.
 - 14. Section 70 of the Regulations and the heading before it are replaced by the following:

SUPPLY OF DRIED MARIHUANA

 - 70. A medical practitioner who has obtained dried marihuana from a licensed dealer under subsection 24(2) of the *Narcotic Control Regulations*⁴ may provide the marihuana to the holder of an authorization to possess under the practitioner's care.
 - 70.1 A licensed dealer, as defined in section 2 of the *Narcotic Control Regulations*, producing dried marihuana under contract with Her Majesty in right of Canada may provide or send that marihuana to the holder of an authorization to possess.
- COMING INTO FORCE
- 15. These Regulations come into force on the day on which they are registered.

⁴ Note by the Secretariat: E/NL.2004/26

E/NL.2004/36

EXTRADITION ACT

1999, c. 18

An Act respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act¹ and to amend and repeal other Acts in consequence

[Assented to 17th June, 1999]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Extradition Act*.

PART 1 INTERPRETATION

Definitions

2. The definitions in this section apply in this Act.

"Attorney General"

"Attorney General" means the Attorney General of Canada.

"court"

"court" means

- (a) in Ontario, the Ontario Court (General Division);
- (b) in Quebec, the Superior Court;
- (c) in New Brunswick, Manitoba, Alberta and Saskatchewan, the Court of Queen's Bench;
- (d) in Nova Scotia, British Columbia, Yukon and the Northwest Territories, the Supreme Court, and in Nunavut, the Nunavut Court of Justice; and
- (e) in Prince Edward Island and Newfoundland, the Trial Division of the Supreme Court.

"court of appeal"

"court of appeal" means

- (a) in the Province of Prince Edward Island, the Appeal Division of the Supreme Court; and
- (b) in all other provinces, the Court of Appeal.

"extradition agreement"

"extradition agreement" means an agreement that is in force, to which Canada is a party and that contains a provision respecting the extradition of persons, other than a specific agreement.

"extradition partner"

¹ Note by the Secretariat: E/NL.2004/20

"extradition partner" means a State or entity with which Canada is party to an extradition agreement, with which Canada has entered into a specific agreement or whose name appears in the schedule.

"International Criminal Court"

"International Criminal Court" means the International Criminal Court as defined in subsection 2(1) of the *Crimes Against Humanity and War Crimes Act*.

"judge"

"judge" means a judge of the court.

"justice"

"justice" has the same meaning as in section 2 of the *Criminal Code*.

"Minister"

"Minister" means the Minister of Justice.

"specific agreement"

"specific agreement" means an agreement referred to in section 10 that is in force.

"State or entity"

"State or entity" means

- (a) a State other than Canada;
- (b) a province, state or other political subdivision of a State other than Canada;
- (c) a colony, dependency, possession, protectorate, condominium, trust territory or any territory falling under the jurisdiction of a State other than Canada;
- (d) an international criminal court or tribunal; or
- (e) a territory.

1999, c. 18, s. 2; 2000, c. 24, s. 47; 2002, c. 7, s. 169.

PART 2 EXTRADITION FROM CANADA

Extraditable Conduct

General principle

3. (1) A person may be extradited from Canada in accordance with this Act and a relevant extradition agreement on the request of an extradition partner for the purpose of prosecuting the person or imposing a sentence on -- or enforcing a sentence imposed on -- the person if

- (a) subject to a relevant extradition agreement, the offence in respect of which the extradition is requested is punishable by the extradition partner, by imprisoning or otherwise depriving the person of their liberty for a maximum term of two years or more, or by a more severe punishment; and
- (b) the conduct of the person, had it occurred in Canada, would have constituted an offence that is punishable in Canada,
 - (i) in the case of a request based on a specific agreement, by imprisonment for a maximum term of five years or more, or by a more severe punishment, and

(ii) in any other case, by imprisonment for a maximum term of two years or more, or by a more severe punishment, subject to a relevant extradition agreement.

Conduct determinative

(2) For greater certainty, it is not relevant whether the conduct referred to in subsection (1) is named, defined or characterized by the extradition partner in the same way as it is in Canada.

Extradition of a person who has been sentenced

(3) Subject to a relevant extradition agreement, the extradition of a person who has been sentenced to imprisonment or another deprivation of liberty may only be granted if the portion of the term remaining is at least six months long or a more severe punishment remains to be carried out.

Further proceedings

4. For greater certainty, the discharge of a person under this Act or an Act repealed by section 129 or 130 does not preclude further proceedings, whether or not they are based on the same conduct, with a view to extraditing the person under this Act unless the judge is of the opinion that those further proceedings would be an abuse of process.

Jurisdiction

5. A person may be extradited

(a) whether or not the conduct on which the extradition partner bases its request occurred in the territory over which it has jurisdiction; and

(b) whether or not Canada could exercise jurisdiction in similar circumstances.

Retrospectivity

6. Subject to a relevant extradition agreement, extradition may be granted under this Act whether the conduct or conviction in respect of which the extradition is requested occurred before or after this Act or the relevant extradition agreement or specific agreement came into force.

No immunity

6.1 Despite any other Act or law, no person who is the subject of a request for surrender by the International Criminal Court or by any international criminal tribunal that is established by resolution of the Security Council of the United Nations and whose name appears in the schedule, may claim immunity under common law or by statute from arrest or extradition under this Act.

2000, c. 24, s. 48.

Functions of the Minister

Functions of the Minister

7. The Minister is responsible for the implementation of extradition agreements, the administration of this Act and dealing with requests for extradition made under them.

Publication of Extradition Agreements

Publication in *Canada Gazette*

8. (1) Unless the extradition agreement has been published under subsection (2), an extradition agreement -- or the provisions respecting extradition contained in a multilateral extradition agreement -- must be published in the *Canada Gazette* no later than 60 days after it comes into force.

Publication in *Canada Treaty Series*

(2) An extradition agreement -- or the provisions respecting extradition contained in a multilateral extradition agreement -- may be published in the *Canada Treaty Series* and, if so published, the publication must be no later than 60 days after it comes into force.

Judicial notice

(3) Agreements and provisions published in the *Canada Gazette* or the *Canada Treaty Series* are to be judicially noticed.

Designated States and Entities

Designated extradition partners

9. (1) The names of members of the Commonwealth or other States or entities that appear in the schedule are designated as extradition partners.

Amendments to the schedule

(2) The Minister of Foreign Affairs, with the agreement of the Minister, may, by order, add to or delete from the schedule the names of members of the Commonwealth or other States or entities.

Specific Agreements

Specific agreements

10. (1) The Minister of Foreign Affairs may, with the agreement of the Minister, enter into a specific agreement with a State or entity for the purpose of giving effect to a request for extradition in a particular case.

Inconsistency

(2) For greater certainty, if there is an inconsistency between this Act and a specific agreement, this Act prevails to the extent of the inconsistency.

Evidence

(3) A certificate issued by or under the authority of the Minister of Foreign Affairs to which is attached a copy of a specific agreement entered into by Canada and a State or entity is conclusive evidence of the agreement and its contents without proof of the signature or official character of the person appearing to have signed the certificate or agreement.

Minister's Power to Receive Requests

Request to go to Minister

11. (1) A request by an extradition partner for the provisional arrest or extradition of a person shall be made to the Minister.

Provisional arrest request to go to Minister

(2) A request by an extradition partner for the provisional arrest of a person may also be made to the Minister through Interpol.

Warrant for Provisional Arrest

Minister's approval of request for provisional arrest

12. The Minister may, after receiving a request by an extradition partner for the provisional arrest of a person, authorize the Attorney General to apply for a provisional arrest warrant, if the Minister is satisfied that

- (a) the offence in respect of which the provisional arrest is requested is punishable in accordance with paragraph 3(1)(a); and
- (b) the extradition partner will make a request for the extradition of the person.

Provisional arrest warrant

13. (1) A judge may, on *ex parte* application of the Attorney General, issue a warrant for the provisional arrest of a person, if satisfied that there are reasonable grounds to believe that

- (a) it is necessary in the public interest to arrest the person, including to prevent the person from escaping or committing an offence;
- (b) the person is ordinarily resident in Canada, is in Canada or is on the way to Canada; and
- (c) a warrant for the person's arrest or an order of a similar nature has been issued or the person has been convicted.

Contents of the warrant

- (2) A provisional arrest warrant must
 - (a) name or describe the person to be arrested;
 - (b) set out briefly the offence in respect of which the provisional arrest was requested; and
 - (c) order that the person be arrested without delay and brought before the judge who issued the warrant or before another judge in Canada.

Execution throughout Canada

(3) A provisional arrest warrant may be executed anywhere in Canada without being endorsed.

Discharge if no proceedings

14. (1) A person who has been provisionally arrested, whether detained or released on judicial interim release, must be discharged

- (a) when the Minister notifies the court that an authority to proceed will not be issued under section 15;
- (b) if the provisional arrest was made pursuant to a request made under an extradition agreement that contains a period within which a request for extradition must be made and the supporting documents provided,
 - (i) when the period has expired and the extradition partner has not made the request or provided the documents, or
 - (ii) when the request for extradition has been made and the documents provided within the period but the Minister has not issued an authority to proceed before the expiry of 30 days after the expiry of that period; or
- (c) if the provisional arrest was not made pursuant to a request made under an extradition agreement or was made pursuant to an extradition agreement that does not contain a period within which a request for extradition must be made and the supporting documents provided,
 - (i) when 60 days have expired after the provisional arrest and the extradition partner has not made the request or provided the documents, or

(ii) when the request for extradition has been made and the documents provided within 60 days but the Minister has not issued an authority to proceed before the expiry of 30 additional days.

Extension

(2) On application of the Attorney General, a judge

(a) may extend a period referred to in subsection (1); or

(b) shall, in the case of a person arrested on the request of the International Criminal Court, extend a period referred to in subsection (1) for the period specified by the Attorney General, not to exceed 30 days.

Release of person

(3) In extending a period under subsection (2), the judge may also grant the person judicial interim release or vary the conditions of their judicial interim release.

1999, c. 18, s. 14; 2000, c. 24, s. 49.

Authority to Proceed

Minister's power to issue

15. (1) The Minister may, after receiving a request for extradition and being satisfied that the conditions set out in paragraph 3(1)(a) and subsection 3(3) are met in respect of one or more offences mentioned in the request, issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the extradition partner, an order of a court for the committal of the person under section 29.

Competing requests

(2) If requests from two or more extradition partners are received by the Minister for the extradition of a person, the Minister shall determine the order in which the requests will be authorized to proceed.

Contents of authority to proceed

(3) The authority to proceed must contain

(a) the name or description of the person whose extradition is sought;

(b) the name of the extradition partner; and

(c) the name of the offence or offences under Canadian law that correspond to the alleged conduct of the person or the conduct in respect of which the person was convicted, as long as one of the offences would be punishable in accordance with paragraph 3(1)(b).

Copy of authority to proceed

(4) A copy of an authority to proceed produced by a means of telecommunication that produces a writing has the same probative force as the original for the purposes of this Part.

Arrest or Summons Following Authority to Proceed

Warrant of arrest or summons

16. (1) The Attorney General may, after the Minister issues an authority to proceed, apply *ex parte* to a judge in the province in which the Attorney General believes the person is or to which the person is on their way, or was last known to be, for the issuance of a summons to the person or a warrant for the arrest of the person.

When provisionally arrested

(2) If the person has been arrested pursuant to a provisional arrest warrant issued under section 13, the Attorney General need not apply for a summons or warrant under subsection (1).

Issuance of summons or warrant of arrest

(3) The judge to whom an application is made shall issue a summons to the person, or a warrant for the arrest of the person, in accordance with subsection 507(4) of the *Criminal Code*, with any modifications that the circumstances require.

Execution throughout Canada

(4) A warrant that is issued under this section may be executed, and a summons issued under this section may be served, anywhere in Canada without being endorsed.

Date of hearing -- summons

(5) A summons that is issued under this section must

(a) set a date for the appearance of the person before a judge that is not later than 15 days after its issuance; and

(b) require the person to appear at a time and place stated in it for the purposes of the *Identification of Criminals Act*.

Effect of appearance

(6) A person appearing as required by subsection (5) is considered, for the purposes only of the *Identification of Criminals Act*, to be in lawful custody charged with an indictable offence.

Appearance

Appearance

17. (1) A person who is arrested under section 13 or 16 is to be brought before a judge or a justice within twenty-four hours after the person is arrested, but if no judge or no justice is available during this time, the person shall be brought before a judge or a justice as soon as possible.

Appearance before justice

(2) The justice before whom a person is brought under subsection (1) shall order that the person be detained in custody and brought before a judge.

Decision of judge

18. (1) The judge before whom a person is brought following arrest under section 13 or 16 shall

(a) if the person has been arrested on the request of the International Criminal Court, order the detention in custody of the person unless

(i) the person shows cause, in accordance with subsection 522(2) of the *Criminal Code*, that their detention in custody is not justified, and

(ii) the judge is satisfied that, given the gravity of the alleged offence, there are urgent and exceptional circumstances that justify release -- with or without conditions -- and that the person will appear as required; or

(b) in any other case, order the release, with or without conditions, or detention in custody of the person.

Mandatory adjournment

(1.1) An application for judicial interim release in respect of a person referred to in paragraph (1)(a) shall, at the request of the Attorney General, be adjourned to await receipt of the recommendations of the Pre-Trial Chamber of the International Criminal Court. If the recommendations are not received within six days, the judge may proceed to hear the application.

Recommendations of Pre-Trial Chamber

(1.2) If the Pre-Trial Chamber of the International Criminal Court submits recommendations, the judge shall consider them before rendering a decision.

Review by court of appeal

(2) A decision respecting judicial interim release may be reviewed by a judge of the court of appeal and that judge may

(a) confirm the decision;

(b) vary the decision; or

(c) substitute any other decision that, in the judge's opinion, should have been made.

1999, c. 18, s. 18; 2000, c. 24, s. 50.

Criminal Code

19. Part XVI of the *Criminal Code* applies, with any modifications that the circumstances require, in respect of a person arrested under section 13 or 16 or to whom a summons has been issued under section 16.

Section 679 of the *Criminal Code*

20. Section 679 of the *Criminal Code* applies, with any modifications that the circumstances require, to the judicial interim release of a person pending

(a) a determination of an appeal from an order of committal made under section 29;

(b) the Minister's decision under section 40 respecting the surrender of the person; or

(c) a determination of a judicial review of the Minister's decision under section 40 to order the surrender of the person.

Date of hearing -- provisional arrest

21. (1) If a person has been provisionally arrested, the judge before whom the person is brought shall

(a) order the person to appear before the court from time to time during the period referred to in paragraph 14(1)(b) or (c); and

(b) set a date for the extradition hearing if the Minister has issued an authority to proceed.

Date of hearing after authority to proceed issued

(2) If a person has been arrested or is a person to whom a summons has been issued under section 16, the judge before whom the person is brought shall set a date for the extradition hearing.

Hearing

(3) The judge shall set an early date for the extradition hearing, whether that date is in or out of the prescribed sessions of the court.

Application for transfer

22. (1) On application of the Attorney General or the person arrested or to whom a summons has been issued under section 16, the judge shall, if satisfied that the interests of justice so require, order that the proceedings be transferred to another place in Canada and that the person appear before a judge in that place, and

- (a) if the person is detained, that the person be conveyed by a peace officer to the place; and
- (b) if the person is not detained or has been released on judicial interim release, that the person be summoned to appear at the place.

Execution throughout Canada

(2) A summons issued under paragraph (1)(b) may be served anywhere in Canada without being endorsed.

Order respecting expenses

(3) If the order under subsection (1) was made on the application of the Attorney General, the judge may order that the Attorney General pay the person's reasonable travel expenses incurred further to the order.

Substitution and Amendment of Authority to Proceed

Substitution of authority to proceed

23. (1) The Minister may substitute another authority to proceed at any time before the extradition hearing begins. All documents issued and orders made by the court apply in respect of the new authority to proceed, unless the court, on application of the person or the Attorney General, orders otherwise.

New date for hearing

(1.1) Where the Minister substitutes another authority to proceed under subsection (1) and the person applies for another date to be set for the beginning of the extradition hearing in order to give the person an opportunity to examine the new authority, the judge may set another date for the hearing.

Amendment of authority to proceed

(2) The judge may, on application of the Attorney General, amend the authority to proceed after the hearing has begun in accordance with the evidence that is produced during the hearing.

Withdrawal of the authority to proceed

(3) The Minister may at any time withdraw the authority to proceed and, if the Minister does so, the court shall discharge the person and set aside any order made respecting their judicial interim release or detention.

Extradition Hearing

Extradition hearing

24. (1) The judge shall, on receipt of an authority to proceed from the Attorney General, hold an extradition hearing.

Application of Part XVIII of the *Criminal Code*

(2) For the purposes of the hearing, the judge has, subject to this Act, the powers of a justice under Part XVIII of the *Criminal Code*, with any modifications that the circumstances require.

Competence

25. For the purposes of the *Constitution Act, 1982*, a judge has, with respect to the functions that the judge is required to perform in applying this Act, the same competence that that judge possesses by virtue of being a superior court judge.

Order restricting publication of evidence

26. Before beginning a hearing in respect of a judicial interim release or an extradition hearing, a judge may, on application by the person or the Attorney General and on being satisfied that the publication or broadcasting of the evidence would constitute a risk to the holding of a fair trial by the extradition partner, make an order directing that the evidence taken not be published or broadcast before the time that the person is discharged or, if surrendered, the trial by the extradition partner has concluded.

Exclusion of person from hearing

27. The presiding judge may make an order excluding any person from the court for all or part of an extradition hearing or hearing in respect of a judicial interim release if the judge is of the opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude the person.

Power to compel witnesses

28. A judge who presides over an extradition hearing or a hearing in respect of a judicial interim release may compel a witness to attend the hearing and sections 698 to 708 of the *Criminal Code* apply, with any modifications that the circumstances require.

Order of committal

29. (1) A judge shall order the committal of the person into custody to await surrender if

(a) in the case of a person sought for prosecution, there is evidence admissible under this Act of conduct that, had it occurred in Canada, would justify committal for trial in Canada on the offence set out in the authority to proceed and the judge is satisfied that the person is the person sought by the extradition partner; and

(b) in the case of a person sought for the imposition or enforcement of a sentence, the judge is satisfied that the conviction was in respect of conduct that corresponds to the offence set out in the authority to proceed and that the person is the person who was convicted.

Order of committal

(2) The order of committal must contain

(a) the name of the person;

(b) the offence set out in the authority to proceed for which the committal is ordered;

(c) the place at which the person is to be held in custody; and

(d) the name of the extradition partner.

Discharge of person

(3) A judge shall order the person discharged if the judge does not order their committal under subsection (1).

Relevant date

(4) The date of the authority to proceed is the relevant date for the purposes of subsection (1).

Extradition when person not present at conviction

(5) Subject to a relevant extradition agreement, if a person has been tried and convicted without the person being present, the judge shall apply paragraph (1)(a).

Authority to keep person in custody

30. (1) The order of committal constitutes the authority to keep the person in custody, subject to an order of judicial interim release.

Duration of order

(2) The order of committal remains in force until the person is surrendered or discharged or until a new hearing is ordered under paragraph 54(a).

Rules of Evidence

Definition of "document"

31. For the purposes of sections 32 to 38, "document" means data recorded in any form, and includes photographs and copies of documents.

Evidence

32. (1) Subject to subsection (2), evidence that would otherwise be admissible under Canadian law shall be admitted as evidence at an extradition hearing. The following shall also be admitted as evidence, even if it would not otherwise be admissible under Canadian law:

- (a) the contents of the documents contained in the record of the case certified under subsection 33(3);
- (b) the contents of the documents that are submitted in conformity with the terms of an extradition agreement; and
- (c) evidence adduced by the person sought for extradition that is relevant to the tests set out in subsection 29(1) if the judge considers it reliable.

Exception -- Canadian evidence

(2) Evidence gathered in Canada must satisfy the rules of evidence under Canadian law in order to be admitted.

Record of the case

33. (1) The record of the case must include

- (a) in the case of a person sought for the purpose of prosecution, a document summarizing the evidence available to the extradition partner for use in the prosecution; and
- (b) in the case of a person sought for the imposition or enforcement of a sentence,
 - (i) a copy of the document that records the conviction of the person, and
 - (ii) a document describing the conduct for which the person was convicted.

Other documents -- record of the case

(2) A record of the case may include other relevant documents, including documents respecting the identification of the person sought for extradition.

Certification of record of the case

(3) A record of the case may not be admitted unless

(a) in the case of a person sought for the purpose of prosecution, a judicial or prosecuting authority of the extradition partner certifies that the evidence summarized or contained in the record of the case is available for trial and

(i) is sufficient under the law of the extradition partner to justify prosecution, or

(ii) was gathered according to the law of the extradition partner; or

(b) in the case of a person sought for the imposition or enforcement of a sentence, a judicial, prosecuting or correctional authority of the extradition partner certifies that the documents in the record of the case are accurate.

Authentication not required

(4) No authentication of documents is required unless a relevant extradition agreement provides otherwise.

Record of the case and supplements

(5) For the purposes of this section, a record of the case includes any supplement added to it.

Oath or solemn affirmation

34. A document is admissible whether or not it is solemnly affirmed or under oath.

No proof of signature

35. A document purporting to have been signed by a judicial, prosecuting or correctional authority, or a public officer, of the extradition partner shall be admitted without proof of the signature or official character of the person appearing to have signed it.

Translated documents

36. A translation of a document into one of Canada's official languages shall be admitted without any further formality.

Evidence of identity

37. The following are evidence that the person before the court is the person referred to in the order of arrest, the document that records the conviction or any other document that is presented to support the request:

(a) the fact that the name of the person before the court is similar to the name that is in the documents submitted by the extradition partner; and

(b) the fact that the physical characteristics of the person before the court are similar to those evidenced in a photograph, fingerprint or other description of the person.

Judge's Report

Report of the judge

38. (1) A judge who issues an order of committal of a person to await surrender shall transmit to the Minister the following documents:

(a) a copy of the order;

(b) a copy of the evidence adduced at the hearing that has not already been transmitted to the Minister; and

(c) any report that the judge thinks fit.

Right to appeal

(2) When the judge orders the committal of a person, the judge shall inform the person that they will not be surrendered until after the expiry of 30 days and that the person has a right to appeal the order and to apply for judicial interim release.

Property

Property seized

39. (1) Subject to a relevant extradition agreement, a judge who makes an order of committal may order that any thing that was seized when the person was arrested and that may be used in the prosecution of the person for the offence for which the extradition was requested be transferred to the extradition partner at the time the person is surrendered.

Conditions of order

(2) The judge may include in the order any conditions that the judge considers desirable, including conditions

- (a) respecting the preservation and return to Canada of a thing; and
- (b) respecting the protection of the interests of third parties.

Powers of Minister

Surrender

40. (1) The Minister may, within a period of 90 days after the date of a person's committal to await surrender, personally order that the person be surrendered to the extradition partner.

When refugee claim

(2) Before making an order under subsection (1) with respect to a person who has made a claim for refugee protection under the *Immigration and Refugee Protection Act*, the Minister shall consult with the minister responsible for that Act.

Powers of the Minister

(3) The Minister may seek any assurances that the Minister considers appropriate from the extradition partner, or may subject the surrender to any conditions that the Minister considers appropriate, including a condition that the person not be prosecuted, nor that a sentence be imposed on or enforced against the person, in respect of any offence or conduct other than that referred to in the order of surrender.

No surrender

(4) If the Minister subjects surrender of a person to assurances or conditions, the order of surrender shall not be executed until the Minister is satisfied that the assurances are given or the conditions agreed to by the extradition partner.

Extension of time

(5) If the person has made submissions to the Minister under section 43 and the Minister is of the opinion that further time is needed to act on those submissions, the Minister may extend the period referred to in subsection (1) as follows:

- (a) if the person is the subject of a request for surrender by the International Criminal Court, and an issue has been raised as to the admissibility of the case or the jurisdiction of that Court, for a period ending not more than 45 days after the Court's ruling on the issue; or

(b) in any other case, for one additional period that does not exceed 60 days.

Notice of extension of time

(6) If an appeal has been filed under section 50 and the Minister has extended the period referred to in subsection (1), the Minister shall file with the court of appeal a notice of extension of time before the expiry of that period.

1999, c. 18, s. 40; 2000, c. 24, s. 51; 2001, c. 27, s. 250.

When appeal pending

41. (1) The Minister may postpone the making of the order of surrender if

(a) an appeal has been filed under section 50;

(b) the Minister files a notice of postponement with the court of appeal before the expiry of the period referred to in subsection 40(1); and

(c) the order is made not later than 45 days after the date of the decision of the court of appeal.

No further deferral of appeal

(2) When the Minister has filed a notice of postponement with the court of appeal under paragraph (1)(b), that court may not defer the hearing of the appeal under subsection 51(2).

Amendments

42. The Minister may amend a surrender order at any time before its execution.

Submissions

Submissions

43. (1) The person may, at any time before the expiry of 30 days after the date of the committal, make submissions to the Minister in respect of any ground that would be relevant to the Minister in making a decision in respect of the surrender of the person.

Late acceptance of submissions

(2) The Minister may accept submissions even after the expiry of those 30 days in circumstances that the Minister considers appropriate.

Reasons for Refusal

When order not to be made

44. (1) The Minister shall refuse to make a surrender order if the Minister is satisfied that

(a) the surrender would be unjust or oppressive having regard to all the relevant circumstances; or

(b) the request for extradition is made for the purpose of prosecuting or punishing the person by reason of their race, religion, nationality, ethnic origin, language, colour, political opinion, sex, sexual orientation, age, mental or physical disability or status or that the person's position may be prejudiced for any of those reasons.

When Minister may refuse to make order

(2) The Minister may refuse to make a surrender order if the Minister is satisfied that the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner.

Refusal in extradition agreement

45. (1) The reasons for the refusal of surrender contained in a relevant extradition agreement, other than a multilateral extradition agreement, or the absence of reasons for refusal in such an agreement, prevail over sections 46 and 47.

Exception -- multilateral extradition agreement

(2) The reasons for the refusal of surrender contained in a relevant multilateral extradition agreement prevail over sections 46 and 47 only to the extent of any inconsistency between either of those sections and those provisions.

When order not to be made

46. (1) The Minister shall refuse to make a surrender order if the Minister is satisfied that

- (a) the prosecution of a person is barred by prescription or limitation under the law that applies to the extradition partner;
- (b) the conduct in respect of which extradition is sought is a military offence that is not also an offence under criminal law; or
- (c) the conduct in respect of which extradition is sought is a political offence or an offence of a political character.

Restriction

(2) For the purpose of subparagraph (1)(c), conduct that constitutes an offence mentioned in a multilateral extradition agreement for which Canada, as a party, is obliged to extradite the person or submit the matter to its appropriate authority for prosecution does not constitute a political offence or an offence of a political character. The following conduct also does not constitute a political offence or an offence of a political character:

- (a) murder or manslaughter;
- (b) inflicting serious bodily harm;
- (c) sexual assault;
- (d) kidnapping, abduction, hostage-taking or extortion;
- (e) using explosives, incendiaries, devices or substances in circumstances in which human life is likely to be endangered or serious bodily harm or substantial property damage is likely to be caused; and
- (f) an attempt or conspiracy to engage in, counselling, aiding or abetting another person to engage in, or being an accessory after the fact in relation to, the conduct referred to in any of paragraphs (a) to (e).

When Minister may refuse to make order

47. The Minister may refuse to make a surrender order if the Minister is satisfied that

- (a) the person would be entitled, if that person were tried in Canada, to be discharged under the laws of Canada because of a previous acquittal or conviction;
- (b) the person was convicted in their absence and could not, on surrender, have the case reviewed;
- (c) the person was less than eighteen years old at the time of the offence and the law that applies to them in the territory over which the extradition partner has jurisdiction is not consistent with the fundamental principles governing the *Youth Criminal Justice Act*;

(d) the conduct in respect of which the request for extradition is made is the subject of criminal proceedings in Canada against the person; or

(e) none of the conduct on which the extradition partner bases its request occurred in the territory over which the extradition partner has jurisdiction.

1999, c. 18, s. 47; 2002, c. 1, s. 190.

When grounds for refusal do not apply

47.1 The grounds for refusal set out in sections 44, 46 and 47 do not apply in the case of a person who is the subject of a request for surrender by the International Criminal Court.

2000, c. 24, s. 52.

Discharge

48. (1) If the Minister decides not to make a surrender order, the Minister shall order the discharge of the person.

When refugee claim

(2) When the Minister orders the discharge of a person and the person has made a claim for refugee protection under the *Immigration and Refugee Protection Act*, the Minister shall send copies of all relevant documents to the minister responsible for that Act.

1999, c. 18, s. 48; 2001, c. 27, s. 251.

Appeal

Appeal

49. A person may appeal against an order of committal -- or the Attorney General, on behalf of the extradition partner, may appeal the discharge of the person or a stay of proceedings -- to the court of appeal of the province in which the order of committal, the order discharging the person or the order staying the proceedings was made,

(a) on a ground of appeal that involves a question of law alone;

(b) on a ground of appeal that involves a question of fact or a question of mixed law and fact, with leave of the court of appeal or a judge of the court of appeal; or

(c) on a ground of appeal not set out in paragraph (a) or (b) that appears to the court of appeal to be a sufficient ground of appeal, with leave of the court of appeal.

Notice of appeal

50. (1) An appellant who proposes to appeal to a court of appeal or to obtain the leave of that court to appeal must give notice of appeal or notice of the application for leave to appeal not later than 30 days after the decision of the judge with respect to the committal or discharge of the person, or the stay of proceedings, as the case may be, in any manner that may be directed by the rules of court.

Extension of time

(2) The court of appeal or a judge of the court of appeal may, either before or after the expiry of the 30 days referred to in subsection (1), extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

Hearing of appeal

51. (1) An appeal under this Act shall be scheduled for hearing by the court of appeal at an early date whether that date is in or out of the prescribed sessions of that court.

Deferral of appeal

(2) The hearing of an appeal against an order of committal may be deferred by the court of appeal until the Minister makes a decision in respect of the surrender of the person under section 40.

Provisions of the *Criminal Code* to apply

52. (1) Sections 677, 678.1, 682 to 685 and 688 of the *Criminal Code* apply, with any modifications that the circumstances require, to appeals under this Act.

Rules

(2) Unless inconsistent with the provisions of this Act, rules made by the court of appeal under section 482 of the *Criminal Code* in relation to appeals to that court under that Act apply, with any modifications that the circumstances require, to appeals under this Act.

Powers of the court of appeal

53. On the hearing of an appeal against an order of committal of a person, the court of appeal may

(a) allow the appeal, in respect of any offence in respect of which the person has been committed, if it is of the opinion

(i) that the order of committal should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,

(ii) that the order of committal should be set aside on the ground of a wrong decision on a question of law, or

(iii) that, on any ground, there was a miscarriage of justice; or

(b) dismiss the appeal

(i) if it does not allow the appeal on any ground referred to in paragraph (a), or

(ii) even though the court of appeal is of the opinion that on the ground referred to in subparagraph (a)(ii) the appeal may be decided in favour of the appellant, if it is of the opinion that no substantial wrong or miscarriage of justice has occurred and the order of committal should be upheld.

Effect of allowing appeal

54. If the court of appeal allows an appeal under paragraph 53(a), it shall

(a) set aside the order of committal and

(i) discharge the person, or

(ii) order a new extradition hearing; or

(b) amend the order of committal to exclude an offence in respect of which the court is of the opinion that the person has not been properly committed on a ground referred to in subparagraph 53(a)(i), (ii) or (iii).

Powers

55. (1) On the hearing of an appeal against the discharge of a person or against a stay of proceedings, the court of appeal may

- (a) allow the appeal and set aside the order of discharge or stay, if it is of the opinion
 - (i) that the order of discharge should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,
 - (ii) that the order of discharge or the stay of proceedings should be set aside on the ground of a wrong decision on a question of law, or
 - (iii) that, on any ground, there was a miscarriage of justice; or
- (b) dismiss the appeal.

Order for new extradition hearing or committal

(2) The court of appeal may, if it sets aside a stay of proceedings, order a new extradition hearing. The court of appeal may, if it sets aside an order of discharge, order a new extradition hearing or order the committal of the person.

Deferral of Supreme Court appeal

56. (1) The Supreme Court may defer, until the Minister makes a decision with respect to the surrender of the person under section 40, the hearing of an application for leave to appeal, or the hearing of an appeal, from a decision of the court of appeal on an appeal taken under section 49, or on any other appeal in respect of a matter arising under this Act.

Deferral of Supreme Court appeal

(2) The Supreme Court may also, if an application for judicial review is made under section 57 or otherwise, defer the hearing until the court of appeal makes its determination on the application.

Judicial Review of Minister's Order

Review of order

57. (1) Despite the *Federal Courts Act*, the court of appeal of the province in which the committal of the person was ordered has exclusive original jurisdiction to hear and determine applications for judicial review under this Act, made in respect of the decision of the Minister under section 40.

Application

- (2) An application for judicial review may be made by the person.

Time limitation

(3) An application for judicial review shall be made, in accordance with the rules of court of the court of appeal, within 30 days after the time the decision referred to in subsection (1) was first communicated by the Minister to the person, or within any further time that the court of appeal, either before or after the expiry of those 30 days, may fix or allow.

Section 679 of the *Criminal Code*

(4) Section 679 of the *Criminal Code* applies, with any modifications that the circumstances require, to an application for judicial review.

Hearing of application

(5) An application for judicial review shall be scheduled for hearing by the court of appeal at an early date whether that date is in or out of the prescribed sessions of that court.

Powers of court of appeal

(6) On an application for judicial review, the court of appeal may

(a) order the Minister to do any act or thing that the Minister has unlawfully failed or refused to do or has unreasonably delayed in doing; or

(b) declare invalid or unlawful, quash, set aside, set aside and refer back for determination in accordance with any directions that it considers appropriate, prohibit or restrain the decision of the Minister referred to in subsection (1).

Grounds of review

(7) The court of appeal may grant relief under this section on any of the grounds on which the Federal Court may grant relief under subsection 18.1(4) of the *Federal Courts Act*.

Defect in form or technical irregularity

(8) If the sole ground for relief established in an application for judicial review is a defect in form or a technical irregularity, the court of appeal may

(a) refuse the relief if it finds that no substantial wrong or miscarriage of justice has occurred; or

(b) in the case of a defect in form or a technical irregularity in the decision, make an order validating the order, to have effect from the time and on the terms that it considers appropriate.

One hearing by court of appeal

(9) If an appeal under section 49 or any other appeal in respect of a matter arising under this Act is pending, the court of appeal may join the hearing of that appeal with the hearing of an application for judicial review.

Provincial rules of judicial review apply

(10) Unless inconsistent with the provisions of this Act, all laws, including rules, respecting judicial review in force in the province of the court of appeal apply, with any modifications that the circumstances require, to applications under this section.

1999, c. 18, s. 57; 2002, c. 8, s. 141.

Order of Surrender

Contents of the surrender order

58. An order of surrender must

(a) contain the name of the person who is to be surrendered;

(b) describe the offence in respect of which the extradition is requested, the offence for which the committal was ordered or the conduct for which the person is to be surrendered;

(c) state the extradition partner to which the person is to be conveyed;

(d) direct the person who has custody of the person to be surrendered to deliver them into the custody of the person or a member of the class of persons referred to in paragraph (e);

- (e) designate the person or class of persons authorized for the purposes of section 60;
- (f) set out any assurances or conditions to which the surrender is subject;
- (g) fix, in the case of postponement of surrender under section 64, the period of time at or before the expiry of which the person is to be surrendered; and
- (h) fix, in the case of a temporary surrender under section 66,
 - (i) the period of time at or before the expiry of which the person to be surrendered must be returned to Canada, and
 - (ii) the period of time at or before the expiry of which final surrender shall take place.

Surrender for other offences

59. Subject to a relevant extradition agreement, the Minister may, if the request for extradition is based on more than one offence, order the surrender of a person for all the offences even if not all of them fulfil the requirements set out in section 3, if

- (a) the person is being surrendered for at least one offence that fulfils the requirements set out in section 3; and
- (b) all the offences relate to conduct that, had it occurred in Canada, would have constituted offences that are punishable under the laws of Canada.

Power to convey

60. On the execution of a surrender order, the person or persons designated under paragraph 58(e) shall have the authority to receive, hold in custody and convey the person into the territory over which the extradition partner has jurisdiction.

Escape

61. (1) If the person escapes while in custody, the law that applies with respect to a person who is accused or convicted of a crime against the laws of Canada and who escapes applies with respect to the person.

Arrest

(2) If the person escapes while in custody, the person or member of the class of persons having custody of the person has the power to arrest them in fresh pursuit.

Delay before surrender

62. (1) No person may be surrendered
- (a) until a period of 30 days has expired after the date of the committal for surrender; or
 - (b) if an appeal or a judicial review in respect of a matter arising under this Act, or any appeal from an appeal or judicial review, is pending, until after the date of the final decision of the court on the appeal or judicial review.

Waiver of period of time

- (2) The person may waive the period referred to in paragraph (1)(a) if they do so in writing.

Place of surrender

63. A surrender may take place at any place within or outside Canada that is agreed to by Canada and the extradition partner.

Postponement of surrender

64. (1) Unless the Minister orders otherwise, a surrender order made in respect of a person accused of an offence within Canadian jurisdiction or who is serving a sentence in Canada after a conviction for an offence, other than an offence with respect to the conduct to which the order relates does not take effect until the person has been discharged, whether by acquittal, by expiry of the sentence or otherwise.

Offence before or after surrender

(2) For greater certainty, the person need not have been accused of the offence within Canadian jurisdiction before the surrender order was made.

Return to Canada

65. If a person returns to Canada after surrender before the expiry of a sentence that they were serving in Canada at the time of surrender, the remaining part of the sentence must be served.

Temporary Surrender

Temporary surrender

66. (1) The Minister may order the temporary surrender to an extradition partner of a person who is ordered committed under section 29 while serving a term of imprisonment in Canada so that the extradition partner may prosecute the person or to ensure the person's presence in respect of appeal proceedings that affect the person, on condition that the extradition partner give the assurances referred to in subsections (3) and (4).

Time limits

(2) An order of temporary surrender is subject to the time limits set out in subsections 40(1) and (5) and paragraph 41(1)(c).

Assurances

(3) The Minister may not order temporary surrender under subsection (1) unless the extradition partner gives an assurance that the person will remain in custody while temporarily surrendered to the extradition partner and

(a) in the case of temporary surrender for a trial, that the person will be returned within 30 days after the completion of the trial, unless a relevant extradition agreement provides for another time limit; and

(b) in the case of temporary surrender for an appeal, that the person will be returned within 30 days after the completion of the proceedings for which the presence of the person was required, unless a relevant extradition agreement provides for another time limit.

Time limit

(4) The Minister may require the extradition partner to give an assurance that the person will be returned no later than a specified date or that the person will be returned on request of the Minister.

Assurances in extradition agreements

(5) Any assurance referred to in subsections (3) and (4) that is included in a relevant extradition agreement need not be repeated as a specific assurance.

Final surrender after temporary surrender

(6) A person shall, subject to subsection (7), be surrendered to the extradition partner without a further request for extradition after the person

- (a) has been temporarily surrendered;
- (b) has been convicted by the extradition partner and had a term of imprisonment imposed on them;
- (c) has been returned to Canada under subsection (4); and
- (d) has finished serving the portion of the sentence that they were serving in custody in Canada at the time of the temporary surrender, unless the Minister orders that they be surrendered earlier.

No final surrender if circumstances warrant

(7) The Minister may, in circumstances that the Minister considers appropriate, revoke the surrender order and order the discharge of the person.

Notice

(8) The authority who has custody of the person to be surrendered under subsection (6) shall give the Minister reasonable notice of the time when the portion of the person's sentence to be served in custody is to expire.

Final surrender when Canadian sentence expires

(9) When the sentence that the person is serving in Canada expires during the period during which the person is temporarily surrendered to an extradition partner, the surrender is considered to be a final surrender.

Waiver of return

(10) The Minister may, after consultation with the Solicitor General of Canada or the appropriate provincial minister responsible for corrections, waive the return of the person by the extradition partner.

Final surrender despite subsection 3(3)

(11) A person may be surrendered under subsection (6) even if the term of imprisonment imposed by the extradition partner, or the portion of the term remaining to be served, is less than that required by subsection 3(3).

Order for surrender

67. An order of surrender prevails over a prior warrant or other order under which the person to whom it applies is otherwise detained in Canada or at liberty under terms and conditions.

Calculation of sentence

68. For the purposes of calculating a sentence that a person to whom an order of temporary surrender applies is serving in Canada at the time of the temporary surrender, the person

- (a) is credited with any time that is served in custody outside Canada under a temporary surrender order; and
- (b) remains eligible for remission in accordance with the laws of the correctional system under which the person was serving the sentence in Canada.

Remedy

Remedy in case of delay

69. A judge of the superior court of the province in which the person is detained who has the power to grant a writ of *habeas corpus*, may, on application made by or on behalf of the person, and on proof that reasonable notice of the intention to make the application has been given to the Minister, order the person to be discharged out of custody unless sufficient cause is shown against the discharge if

- (a) the Minister has not made an order of surrender under section 40
 - (i) before the expiry of the period referred to in subsection 40(1) and any additional period referred to in subsection 40(5), or
 - (ii) if a notice of postponement has been filed under paragraph 41(1)(b), before the expiry of 45 days after the date of the decision of the court of appeal referred to in paragraph 41(1)(c); or
- (b) the person is not surrendered and conveyed to the extradition partner
 - (i) within 45 days after the order of surrender is made by the Minister under section 40, or
 - (ii) if an appeal or judicial review in respect of any matter arising under this Act, or an appeal from such an appeal or judicial review, is pending, within 45 days after the final decision of the court is made,

over and above, in any case referred to in subparagraph (i) or (ii), the time required to convey the person to the extradition partner.

Consent

Consent to committal

70. (1) A person may, at any time after the issuance of an authority to proceed, consent, in writing and before a judge, to committal.

Judge to order committal

- (2) A judge before whom a person consents under subsection (1) shall
 - (a) order the committal of the person into custody to await surrender to the extradition partner; and
 - (b) transmit a copy of the consent to the Minister.

Consent to surrender

71. (1) A person may, at any time after arrest or appearance, consent, in writing and before a judge, to being surrendered.

Judge to order surrender

- (2) A judge before whom a person consents to being surrendered shall
 - (a) order the committal of the person into custody to await surrender to the extradition partner; and
 - (b) transmit a copy of the consent to the Minister.

When Minister receives consent

(3) The Minister may, as soon as is feasible after receiving a consent to surrender, personally order that the person be surrendered to the extradition partner.

Sections not applicable

(4) When a person consents to being surrendered to the extradition partner, the following sections do not apply:

- (a) section 43 (submissions to the Minister);
- (b) section 44 (reasons for refusal);
- (c) section 48 (discharge of person);
- (d) section 57 (judicial review of Minister's decision); and
- (e) paragraph 62(1)(a) (delay before surrender).

Waiver of Extradition

Waiving extradition

72. (1) A person may, at any time after arrest or appearance, waive extradition in writing and before a judge.

Judge to inform person

- (2) A judge before whom a person gives a waiver under subsection (1) must inform the person
- (a) of the consequences of the waiver including the consequences of waiving the protection of specialty; and
 - (b) that they will be conveyed without delay to the extradition partner.

Judge to order conveyance

- (3) The judge shall
- (a) order the conveyance in custody of the person to the extradition partner; and
 - (b) transmit a copy of the waiver and the order to the Minister.

Conveyance order

- (4) The conveyance order must
- (a) contain the name of the person who is to be conveyed; and
 - (b) state the extradition partner to which the person is to be conveyed.

Escape

73. (1) If the person escapes while in custody for conveyance, the law that applies with respect to a person who is accused or convicted of a crime against the laws of Canada and who escapes applies with respect to the person.

Arrest

(2) If the person escapes while in custody for conveyance, the person in whose custody the person is has the power to arrest them in fresh pursuit.

Transit

Transit

74. (1) The Minister may consent to the transit in Canada of a person surrendered by one State or entity to another, subject to any terms and conditions that the Minister considers appropriate.

Consent to transit

(2) A consent to transit constitutes authority to the officer of the surrendering State or entity or the receiving State or entity to keep the person in custody while in Canada.

Sections to apply

(3) Sections 58 (contents of surrender order), 60 (power to convey), 61 (escape) and 69 (remedy in case of delay) apply, with any modifications that the circumstances require, in respect of the consent to transit.

Special authorization

75. (1) The Minister may, in order to give effect to a request for consent to transit, authorize a person in a State or entity who is inadmissible under the *Immigration and Refugee Protection Act* to come into Canada at a place designated by the Minister and to go to and remain in a place in Canada so designated for the period specified by the Minister. The Minister may make the authorization subject to any conditions that the Minister considers desirable.

Variation of authorization

(2) The Minister may vary the terms of an authorization granted under subsection (1) and, in particular, may extend the period of time during which the person is authorized to remain in a place in Canada.

Non-compliance with conditions of authorization

(3) A person in respect of whom an authorization is granted under subsection (1) and who is found in a place in Canada other than the place designated in the authorization or in any place in Canada after the expiry of the period of time specified in the authorization or who fails to comply with some other condition of the authorization is, for the purposes of the *Immigration and Refugee Protection Act*, deemed to be a person who entered Canada as a temporary resident and remains in Canada after the period authorized for their stay.

1999, c. 18, s. 75; 2001, c. 27, s. 252.

Unscheduled landing

76. If a person being extradited or surrendered from one State or entity to another arrives in Canada without prior consent to transit, a peace officer may, at the request of a public officer who has custody of the person while the person is being conveyed,

(a) if the person is being surrendered to the International Criminal Court, hold the person in custody for a maximum period of 96 hours pending receipt by the Minister of a request for a consent to transit from that Court; or

(b) in any other case, hold the person in custody for a maximum period of 24 hours pending receipt by the Minister of a request for a consent to transit from the requesting State or entity.

1999, c. 18, s. 76; 2000, c. 24, s. 53.

PART 3
EXTRADITION TO CANADA

Definition of "competent authority"

77. In this Part, "competent authority" means

(a) in respect of a prosecution or imposition of a sentence -- or of a disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 -- the Attorney General, or the Attorney General of a province who is responsible for the prosecution of the case; and

(b) in respect of the enforcement of a sentence or a disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985,

(i) the Solicitor General of Canada, if the person would serve the sentence in a penitentiary, or

(ii) the appropriate provincial minister responsible for corrections, in any other case.

1999, c. 18, s. 77; 2002, c. 1, s. 191.

Request by Canada for extradition

78. (1) The Minister, at the request of a competent authority, may make a request to a State or entity for the extradition of a person for the purpose of prosecuting the person for -- or imposing or enforcing a sentence, or making or enforcing a disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, in respect of -- an offence over which Canada has jurisdiction.

Request for provisional arrest

(2) The Minister, at the request of a competent authority, may make a request to a State or entity for the provisional arrest of the person.

1999, c. 18, s. 78; 2002, c. 1, s. 192.

Order in respect of evidence

79. (1) A judge may, for the purposes of acquiring evidence for a request for extradition, on the *ex parte* application of a competent authority, make any order that is necessary to

(a) secure the attendance of a witness at any place designated by the judge;

(b) secure the production as evidence of data that is recorded in any form;

(c) receive and record the evidence; and

(d) certify or authenticate the evidence in a manner and form that is required by the requested State or entity.

Part XXII of the *Criminal Code* to apply

(2) Part XXII of the *Criminal Code* applies, with any modifications that the circumstances require, to orders under subsection (1).

Specialty if person is in Canada

80. Subject to a relevant extradition agreement, a person who has been extradited to Canada by a requested State or entity shall not, unless the person has voluntarily left Canada after surrender or has had a reasonable opportunity of leaving Canada,

(a) be detained or prosecuted, or have a sentence imposed or executed, or a disposition made or executed under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, in Canada in respect of an offence that is alleged to have been committed, or was committed, before surrender other than

- (i) the offence in respect of which the person was surrendered or an included offence,
- (ii) another offence in respect of which the requested State or entity consents to the person being detained or prosecuted, or
- (iii) another offence in respect of which the person consents to being detained or prosecuted; or

(b) be detained in Canada for the purpose of being surrendered to another State or entity for prosecution or for imposition or execution of a sentence in respect of an offence that is alleged to have been committed, or was committed, before surrender to Canada, unless the requested State or entity consents.

1999, c. 18, s. 80; 2002, c. 1, s. 193.

Conveyance of surrendered person

81. (1) A person who is surrendered to Canada by a requested State or entity may be brought into Canada by an agent of the requested State or entity if the Minister so authorizes and be delivered to an appropriate authority to be dealt with according to law.

Power to convey

(2) On the execution of a surrender order, the authorized agent of the requested State or entity shall have the authority to hold the person in custody in Canada until delivery under subsection (1).

Escape

(3) If the person escapes while in custody, the law that applies with respect to a person who is accused or convicted of a crime against the laws of Canada and who escapes applies with respect to the person.

Arrest

(4) If the person escapes, the authorized agent of the requested State or entity has the power to arrest them in fresh pursuit.

Order of detention for temporary surrender

82. (1) Subject to subsection (2), a judge shall, on application of the competent authority made at any time before the temporary surrender, order the detention in custody of a person who is serving a term of imprisonment or has otherwise lawfully been deprived of their liberty in a requested State or entity and whose temporary surrender Canada has requested for the purpose of prosecution or appeal.

Time limit

- (2) The order must contain a provision that the person will not be detained in custody after
- (a) a date specified in the order;
 - (b) in the case of surrender for a trial, 45 days after the completion of the trial; or
 - (c) in the case of surrender for an appeal, 30 days after the completion of the proceedings for which the presence of the person was required.

Order of detention to prevail

(3) An order made under subsection (1) prevails over an order made by a Canadian court, a judge of a Canadian court, a Canadian justice of the peace or any other person who has power in Canada to compel the appearance of a person, in respect of anything that occurred before the person is transferred to Canada.

Variation of detention order

(4) The judge who made the detention order or another judge may vary its terms and conditions and, in particular, may extend the duration of the detention.

Return

(5) Subject to subsection (6), the person shall be returned to the requested State or entity on completion of the proceedings in Canada for which the person was temporarily surrendered or on the expiry of the period set out in the order, whichever is sooner.

Return if right of appeal

(6) The person shall not be returned to the requested State or entity

(a) if the person has been convicted in Canada, before 30 days after the conviction, unless the person or the competent authority declares that there will be no appeal; and

(b) if the person has been acquitted, before 30 days after the acquittal, unless the competent authority declares that there will be no appeal.

Return for appeal

(7) The court of appeal may, on application, recommend that the Minister request another temporary surrender of a person who has been returned to the requested State or entity after trial, if the court of appeal is satisfied that the interests of justice require their presence for the appeal.

Commencement of sentence

83. (1) Subject to subsection (3), the sentence or disposition of a person who has been temporarily surrendered and who has been convicted and sentenced, or found guilty and sentenced, in Canada, or in respect of whom a disposition has been made under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, does not commence until their final extradition to Canada.

Warrant of committal

(2) The warrant of committal issued under the *Criminal Code* in respect of the person must state that the person is to be committed to custody to serve the sentence or disposition immediately on their final extradition to Canada.

If concurrent sentences ordered

(3) The sentencing judge may order that the person's sentence, or the disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, be executed concurrently with the sentence they are serving in the requested State or entity, in which case the warrant of committal or order of disposition shall state that the person is to be committed to custody under subsection (2) only for any portion of the sentence or disposition remaining at the time of their final extradition to Canada.

1999, c. 18, s. 83; 2002, c. 1, s. 194.

PART 4

TRANSITIONAL PROVISIONS, CONSEQUENTIAL AND RELATED AMENDMENTS AND REPEALS

Transitional Provisions

Cases pending -- former *Extradition Act*

84. The *Extradition Act* repealed by section 129 of this Act applies to a matter respecting the extradition of a person as though it had not been repealed, if the hearing in respect of the extradition had already begun on the day on which this Act comes into force.

Cases pending -- *Fugitive Offenders Act*

85. The *Fugitive Offenders Act* repealed by section 130 of this Act applies to a matter respecting the return under that Act of a person as though it had not been repealed, if the hearing before the provincial court judge in respect of the return had already begun on the day on which this Act comes into force.

Consequential Amendments

86. to 88. [Amendments]

Related Amendments

89. to 128. [Amendments]

Repeals

129. and 130. [Repeals]

SCHEDULE

(Sections 2 and 9)

STATES OR ENTITIES DESIGNATED AS EXTRADITION PARTNERS

- Antigua and Barbuda
- Australia
- The Bahamas
- Barbados
- Botswana
- Costa Rica
- Ghana
- Grenada
- Guyana
- The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, established by Resolution 955 (1994) of the Security Council of the United Nations
- The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law Committed in the Territory of the Former Yugoslavia since 1991, established by Resolution 827 (1993) of the Security Council of the United Nations
- Jamaica
- Japan
- Lesotho
- Maldives
- Malta
- Mauritius

- Namibia
- Nauru
- New Zealand
- Papua New Guinea
- Singapore
- Solomon Islands
- South Africa
- St. Kitts & Nevis
- St. Lucia
- St. Vincent & The Grenadines
- Swaziland
- Trinidad and Tobago
- Tuvalu
- United Kingdom of Great Britain and Northern Ireland
- Vanuatu
- Zimbabwe

E/NL.2004/37

**PROCEEDS OF CRIME (MONEY LAUNDERING)
AND TERRORIST FINANCING ACT
2000, c. 17**

An Act to facilitate combatting the laundering of proceeds of crime and combatting the financing of terrorist activities, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence

[Assented to 29th June, 2000]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

2000, c. 17, s. 1; 2001, c. 41, s. 48.

INTERPRETATION

Definitions

2. The definitions in this section apply in this Act.

"authorized person"

"authorized person" means a person who is authorized under subsection 45(2).

"Centre"

"Centre" means the Financial Transactions and Reports Analysis Centre of Canada established by section 41.

"client"

"client" means a person or an entity that engages in a financial transaction or activity with a person or an entity referred to in section 5, and includes a person or an entity on whose behalf the person or the entity that engages in the transaction or activity is acting.

"Commissioner"

"Commissioner" has the same meaning as in section 2 of the *Canada Customs and Revenue Agency Act*.

"courier"

"courier" means a courier as defined by regulation.

"customs office"

"customs office" has the same meaning as in subsection 2(1) of the *Customs Act*.

"entity"

"entity" means a body corporate, a trust, a partnership, a fund or an unincorporated association or organization.

"legal counsel"

"legal counsel" means, in the Province of Quebec, an advocate or a notary and, in any other province, a barrister or solicitor.

"mail"

"mail" has the same meaning as in subsection 2(1) of the *Canada Post Corporation Act*.

"Minister"

"Minister" means, in relation to sections 25 to 39, the Minister of National Revenue and, in relation to any other provision of this Act, the member of the Queen's Privy Council for Canada who is designated by the Governor in Council as the Minister for the purposes of that provision.

"money laundering offence"

"money laundering offence" means an offence under subsection 462.31(1) of the *Criminal Code*.

"officer"

"officer" has the same meaning as in subsection 2(1) of the *Customs Act*.

"person"

"person" means an individual.

"prescribed"

"prescribed" means prescribed by regulations made by the Governor in Council.

"terrorist activity"

"terrorist activity" has the same meaning as in subsection 83.01(1) of the *Criminal Code*.

"terrorist activity financing offence"

"terrorist activity financing offence" means an offence under section 83.02, 83.03 or 83.04 of the *Criminal Code* or an offence under section 83.12 of the *Criminal Code* arising out of a contravention of section 83.08 of that Act.

"threats to the security of Canada"

"threats to the security of Canada" has the same meaning as in section 2 of the *Canadian Security Intelligence Service Act*.

2000, c. 17, s. 2, c. 24, s. 76.1; 2001, c. 32, s. 70, c. 41, ss. 49, 132.

OBJECT OF ACT

Object

3. The object of this Act is

(a) to implement specific measures to detect and deter money laundering and the financing of terrorist activities and to facilitate the investigation and prosecution of money laundering offences and terrorist activity financing offences, including

(i) establishing record keeping and client identification requirements for financial services providers and other persons or entities that engage in businesses, professions or activities that are susceptible to being used for money laundering or the financing of terrorist activities,

(ii) requiring the reporting of suspicious financial transactions and of cross-border movements of currency and monetary instruments, and

(iii) establishing an agency that is responsible for dealing with reported and other information;

(b) to respond to the threat posed by organized crime by providing law enforcement officials with the information they need to deprive criminals of the proceeds of their criminal activities, while ensuring that appropriate safeguards are put in place to protect the privacy of persons with respect to personal information about themselves; and

(c) to assist in fulfilling Canada's international commitments to participate in the fight against transnational crime, particularly money laundering, and the fight against terrorist activity.

2000, c. 17, s. 3; 2001, c. 41, s. 50.

HER MAJESTY

Binding on Her Majesty

4. This Act is binding on Her Majesty in right of Canada or a province.

PART 1 RECORD KEEPING AND REPORTING OF SUSPICIOUS TRANSACTIONS

Application

Application of Part

5. This Part applies to the following persons and entities:

(a) authorized foreign banks within the meaning of section 2 of the *Bank Act* in respect of their business in Canada, or banks to which that Act applies;

(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;

(c) life companies or foreign life companies to which the *Insurance Companies Act* applies or life insurance companies regulated by a provincial Act;

(d) companies to which the *Trust and Loan Companies Act* applies;

(e) trust companies regulated by a provincial Act;

(f) loan companies regulated by a provincial Act;

(g) persons and entities authorized under provincial legislation to engage in the business of dealing in securities, or to provide portfolio management or investment counselling services;

(h) persons and entities engaged in the business of foreign exchange dealing;

(i) persons and entities engaged in a business, profession or activity described in regulations made under paragraph 73(1)(a);

(j) persons and entities engaged in a business or profession described in regulations made under paragraph 73(1)(b), while carrying out the activities described in the regulations;

- (k) casinos, as defined in the regulations, including those owned or controlled by Her Majesty;
- (l) departments and agents of Her Majesty in right of Canada or of a province that are engaged in the business of accepting deposit liabilities or that sell money orders to the public, while carrying out the activities described in regulations made under paragraph 73(1)(c); and
- (m) for the purposes of section 7, employees of a person or entity referred to in any of paragraphs (a) to (l).

2000, c. 17, s. 5; 2001, c. 41, s. 51.

Record Keeping

Duties

6. Every person or entity shall keep and retain records that relate to financial activities in accordance with the regulations made under subsection 73(1).

Reporting

Transactions if reasonable grounds to suspect

7. In addition to the requirements of subsection 9(1), every person or entity shall report to the Centre, in the prescribed form and manner, every financial transaction that occurs in the course of their activities and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission of a money laundering offence or a terrorist activity financing offence.

2000, c. 17, s. 7; 2001, c. 41, s. 52.

Disclosure

7.1 (1) In addition to the requirements of section 7 and subsection 9(1), every person or entity that is required to make a disclosure under section 83.1 of the *Criminal Code* shall also make a report on it to the Centre, in the prescribed form and manner.

Limitation

(2) Subsection (1) does not apply to prescribed persons or entities, or prescribed classes of persons or entities, in respect of prescribed transactions or property, or classes of transactions or property, if the prescribed conditions are met.

2001, c. 41, s. 52.

No disclosure of reports

8. No person or entity shall disclose that they have made a report under section 7, or disclose the contents of such a report, with the intent to prejudice a criminal investigation, whether or not a criminal investigation has begun.

Prescribed financial transactions

9. (1) Every person or entity shall report to the Centre, in the prescribed form and manner, every prescribed financial transaction that occurs in the course of their activities.

Limitation

(2) Subsection (1) does not apply to prescribed persons or entities, or prescribed classes of persons or entities, in respect of prescribed transactions, classes of transactions, clients or classes of clients, if the prescribed conditions are met.

List of persons

(3) Every person or entity shall maintain a list, in the prescribed form and manner, of their clients in respect of whom a report would have been required under subsection (1) were it not for subsection (2). However, a person or an entity may choose to report a client's transactions under subsection (1) instead of maintaining the list in respect of that client.

Reports under other Acts

9.1 Subject to section 9, every person or entity that is required to make a report to the Centre under an Act of Parliament or any regulations under it shall make it in the form and manner prescribed under this Act for a report under that Act.

2001, c. 41, s. 53.

Immunity

10. No criminal or civil proceedings lie against a person or an entity for making a report in good faith under section 7, 7.1 or 9, or for providing the Centre with information about suspicions of money laundering or of the financing of terrorist activities.

2000, c. 17, s. 10; 2001, c. 41, s. 53.

Solicitor-client privilege

11. Nothing in this Part requires a legal counsel to disclose any communication that is subject to solicitor-client privilege.

PART 2

REPORTING OF CURRENCY AND MONETARY INSTRUMENTS

Reporting

Currency and monetary instruments

12. (1) Every person or entity referred to in subsection (3) shall report to an officer, in accordance with the regulations, the importation or exportation of currency or monetary instruments of a value equal to or greater than the prescribed amount.

Limitation

(2) A person or entity is not required to make a report under subsection (1) in respect of an activity if the prescribed conditions are met in respect of the person, entity or activity, and if the person or entity satisfies an officer that those conditions have been met.

Who must report

(3) Currency or monetary instruments shall be reported under subsection (1)

(a) in the case of currency or monetary instruments in the actual possession of a person arriving in or departing from Canada, or that form part of their baggage if they and their baggage are being carried on board the same conveyance, by that person or, in prescribed circumstances, by the person in charge of the conveyance;

(b) in the case of currency or monetary instruments imported into Canada by courier or as mail, by the exporter of the currency or monetary instruments or, on receiving notice under subsection 14(2), by the importer;

(c) in the case of currency or monetary instruments exported from Canada by courier or as mail, by the exporter of the currency or monetary instruments;

(d) in the case of currency or monetary instruments, other than those referred to in paragraph (a) or imported or exported as mail, that are on board a conveyance arriving in or departing from Canada, by the person in charge of the conveyance; and

(e) in any other case, by the person on whose behalf the currency or monetary instruments are imported or exported.

Duty to answer and comply with the request of an officer

(4) If a report is made in respect of currency or monetary instruments, the person arriving in or departing from Canada with the currency or monetary instruments shall

(a) answer truthfully any questions that the officer asks with respect to the information required to be contained in the report; and

(b) on request of an officer, present the currency or monetary instruments that they are carrying or transporting, unload any conveyance or part of a conveyance or baggage and open or unpack any package or container that the officer wishes to examine.

Sending reports to Centre

(5) Officers shall send the reports they receive under subsection (1) to the Centre.

2000, c. 17, s. 12; 2001, c. 41, s. 54.

Decision not to proceed with importing or exporting

13. A person or an entity that is required to report currency or monetary instruments may, at any time before they are retained under subsection 14(1) or forfeited as a result of a contravention of subsection 12(1), decide not to proceed further with importing or exporting them.

Retention

Temporary retention

14. (1) Subject to subsections (2) to (5), if a person or an entity indicates to an officer that they have currency or monetary instruments to report under subsection 12(1) but the report has not yet been completed, the officer may, after giving notice in the prescribed manner to the person or entity, retain the currency or monetary instruments for the prescribed period.

Importation or exportation by courier or as mail

(2) In the case of currency or monetary instruments imported or exported by courier or as mail, the officer shall, within the prescribed period, give the notice to the exporter if the exporter's address is known, or, if the exporter's address is not known, to the importer.

Limitation

(3) Currency or monetary instruments may no longer be retained under subsection (1) if, during the period referred to in that subsection,

(a) the officer is satisfied that the currency or monetary instruments have been reported under subsection 12(1); or

(b) the importer or exporter of the currency or monetary instruments advises the officer that they have decided not to proceed further with importing or exporting them.

Content of notice

(4) The notice referred to in subsection (1) must state

(a) the period for which the currency or monetary instruments may be retained;

(b) that if, within that period, the currency or monetary instruments are reported under subsection 12(1) or the importer or exporter decides not to proceed further with importing or exporting them, they may no longer be retained; and

(c) that currency or monetary instruments retained at the end of that period are forfeited to Her Majesty in right of Canada at that time.

Forfeiture and report to Centre

(5) Currency or monetary instruments that are retained by an officer under subsection (1) are forfeited to Her Majesty in right of Canada at the end of the period referred to in that subsection, and the officer shall send any incomplete report in respect of the forfeited currency or monetary instruments made under subsection 12(1) to the Centre.

Searches

Search of the person

15. (1) An officer may search

(a) any person who has arrived in Canada, within a reasonable time after their arrival in Canada,

(b) any person who is about to leave Canada, at any time before their departure, or

(c) any person who has had access to an area designated for use by persons about to leave Canada and who leaves the area but does not leave Canada, within a reasonable time after they leave the area,

if the officer suspects on reasonable grounds that the person has secreted on or about their person currency or monetary instruments that are of a value equal to or greater than the amount prescribed for the purpose of subsection 12(1) and that have not been reported in accordance with that subsection.

Person taken before senior officer

(2) An officer who is about to search a person under this section shall, on the person's request, without delay take the person before the senior officer at the place where the search is to take place.

Discharge or search

(3) A senior officer before whom a person is taken under subsection (2) shall, if the senior officer believes there are no reasonable grounds for suspicion under subsection (1), discharge the person or, if the senior officer believes otherwise, direct that the person be searched.

Search by same sex

(4) No person shall be searched under this section by a person who is not of the same sex, and if there is no officer of the same sex at the place where the search is to take place, an officer may authorize any suitable person of the same sex to perform the search.

2000, c. 17, s. 15; 2001, c. 41, s. 55.

Search of conveyance

16. (1) If an officer suspects on reasonable grounds that there are, on or about a conveyance, currency or monetary instruments of a value equal to or greater than the amount prescribed for the purpose of subsection 12(1) and that have not been reported in accordance with that subsection, the officer may stop, board and search the conveyance, examine anything in or on it and open or cause to be opened any package or container in or on it and direct that the conveyance be moved to a customs office or other suitable place for the search, examination or opening.

Search of baggage

(2) If an officer suspects on reasonable grounds that there are, in baggage, currency or monetary instruments that are of a value equal to or greater than the amount prescribed for the purpose of subsection 12(1) and that have not been reported in accordance with that subsection, the officer may search the baggage, examine anything in it and open or cause to be opened any package or container in it and direct that the baggage be moved to a customs office or other suitable place for the search, examination or opening.

2000, c. 17, s. 16; 2001, c. 41, s. 56.

Examination and opening of mail

17. (1) An officer may examine any mail that is being imported or exported and open or cause to be opened any such mail that the officer suspects on reasonable grounds contains currency or monetary instruments of a value equal to or greater than the amount prescribed for the purpose of subsection 12(1).

Exception

(2) An officer may not open or cause to be opened any mail that weighs 30 grams or less unless the person to whom it is addressed consents or the person who sent it consents or has completed and attached to the mail a label in accordance with article 116 of the Detailed Regulations of the Universal Postal Convention.

Opening of mail in officer's presence

(3) An officer may cause mail that weighs 30 grams or less to be opened in the officer's presence by the person to whom it is addressed, the person who sent it or a person authorized by either of those persons.

2000, c. 17, s. 17; 2001, c. 41, s. 57.

Seizures

Seizure and forfeiture

18. (1) If an officer believes on reasonable grounds that subsection 12(1) has been contravened, the officer may seize as forfeit the currency or monetary instruments.

Return of seized currency or monetary instruments

(2) The officer shall, on payment of a penalty in the prescribed amount, return the seized currency or monetary instruments to the individual from whom they were seized or to the lawful owner unless the officer has reasonable grounds to suspect that the currency or monetary instruments are proceeds of crime within the meaning of subsection 462.3(1) of the *Criminal Code* or funds for use in the financing of terrorist activities.

Notice of seizure

(3) An officer who seizes currency or monetary instruments under subsection (1) shall

(a) if they were not imported or exported as mail, give the person from whom they were seized written notice of the seizure and of the right to review and appeal set out in sections 25 and 30;

(b) if they were imported or exported as mail and the address of the exporter is known, give the exporter written notice of the seizure and of the right to review and appeal set out in sections 25 and 30; and

(c) take the measures that are reasonable in the circumstances to give notice of the seizure to any person whom the officer believes on reasonable grounds is entitled to make an application under section 32 in respect of the currency or monetary instruments.

Service of notice

(4) The service of a notice under paragraph (3)(b) is sufficient if it is sent by registered mail addressed to the exporter.

2000, c. 17, s. 18; 2001, c. 32, s. 71, c. 41, ss. 58, 134.

Power to call in aid

19. An officer may call on other persons to assist the officer in exercising any power of search, seizure or retention that the officer is authorized under this Part to exercise, and any person so called on is authorized to exercise the power.

Recording of reasons for decision

19.1 If an officer decides to exercise powers under subsection 18(1), the officer shall record in writing reasons for the decision.

Report to Commissioner and the Centre

20. If the currency or monetary instruments have been seized under section 18, the officer who seized them shall without delay report the circumstances of the seizure to the Commissioner and to the Centre.

Exported Mail

Mail to be made available to an officer

21. (1) On request of an officer, any mail that is being sent from a place in Canada to a place in a foreign country and that contains or is suspected to contain currency or monetary instruments that are of a value equal to or greater than the amount prescribed for the purpose of subsection 12(1) shall be submitted by the Canada Post Corporation to an officer.

Mail in the course of post

(2) All mail that is submitted to an officer under this section remains, for the purposes of the *Canada Post Corporation Act*, in the course of post unless it is retained or seized under this Part.

Notice of retention or seizure

(3) If mail is retained or seized under this Part, notice of the retention or seizure shall be given in writing to the Canada Post Corporation within 60 days after the retention or seizure unless the mail has, before the expiry of that period, been returned to the Corporation.

Mail subject to customs laws

(4) An officer shall deal with all mail submitted to the officer under this section in accordance with the laws relating to customs and this Part and, subject to those laws and this Part, shall return it to the Canada Post Corporation.

Non-mailable matter

(5) Any non-mailable matter found by an officer in mail made available to the officer under this section shall be dealt with in accordance with the regulations made under the *Canada Post Corporation Act*.

2000, c. 17, s. 21; 2001, c. 41, s. 59.

Transfer to the Minister of Public Works and Government Services

When forfeiture under s. 14(5)

22. (1) An officer who retains currency or monetary instruments forfeited under subsection 14(5) shall send the currency or monetary instruments to the Minister of Public Works and Government Services.

When seizure or payment of a penalty

(2) An officer who seizes currency or monetary instruments or is paid a penalty under subsection 18(2) shall send the currency or monetary instruments or the penalty, as the case may be, to the Minister of Public Works and Government Services.

2000, c. 17, s. 22; 2001, c. 41, s. 60.

Forfeiture

Time of forfeiture

23. Subject to subsection 18(2) and sections 25 to 31, currency or monetary instruments seized as forfeit under subsection 18(1) are forfeited to Her Majesty in right of Canada from the time of the contravention of subsection 12(1) in respect of which they were seized, and no act or proceeding after the forfeiture is necessary to effect the forfeiture.

Review and Appeal

Review of forfeiture

24. The forfeiture of currency or monetary instruments seized under this Part is final and is not subject to review or to be set aside or otherwise dealt with except to the extent and in the manner provided by sections 25 to 30.

Request for Minister's decision

25. A person from whom currency or monetary instruments were seized under section 18, or the lawful owner of the currency or monetary instruments, may within 90 days after the date of the seizure request a decision of the Minister as to whether subsection 12(1) was contravened, by giving notice in writing to the officer who seized the currency or monetary instruments or to an officer at the customs office closest to the place where the seizure took place.

2000, c. 17, s. 25; 2001, c. 41, s. 61.

Notice of Commissioner

26. (1) If a decision of the Minister is requested under section 25, the Commissioner shall without delay serve on the person who requested it written notice of the circumstances of the seizure in respect of which the decision is requested.

Evidence

(2) The person on whom a notice is served under subsection (1) may, within 30 days after the notice is served, furnish any evidence in the matter that they desire to furnish.

Decision of the Minister

27. (1) Within 90 days after the expiry of the period referred to in subsection 26(2), the Minister shall decide whether subsection 12(1) was contravened.

Deferral of decision

(2) If charges are laid with respect to a money laundering offence or a terrorist activity financing offence in respect of the currency or monetary instruments seized, the Minister may defer making a decision but shall make it in any case no later than 30 days after the conclusion of all court proceedings in respect of those charges.

Notice of decision

(3) The Minister shall, without delay after making a decision, serve on the person who requested it a written notice of the decision together with the reasons for it.

2000, c. 17, s. 27; 2001, c. 41, s. 62.

If there is no contravention

28. If the Minister decides that subsection 12(1) was not contravened, the Minister of Public Works and Government Services shall, on being informed of the Minister's decision, return the penalty that was paid, or the currency or monetary instruments or an amount of money equal to their value at the time of the seizure, as the case may be.

If there is a contravention

29. (1) If the Minister decides that subsection 12(1) was contravened, the Minister shall, subject to the terms and conditions that the Minister may determine,

(a) decide that the currency or monetary instruments or, subject to subsection (2), an amount of money equal to their value on the day the Minister of Public Works and Government Services is informed of the decision, be returned, on payment of a penalty in the prescribed amount or without penalty;

(b) decide that any penalty or portion of any penalty that was paid under subsection 18(2) be remitted; or

(c) subject to any order made under section 33 or 34, confirm that the currency or monetary instruments are forfeited to Her Majesty in right of Canada.

The Minister of Public Works and Government Services shall give effect to a decision of the Minister under paragraph (a) or (b) on being informed of it.

Limit on amount paid

(2) The total amount paid under paragraph (1)(a) shall, if the currency or monetary instruments were sold or otherwise disposed of under the *Seized Property Management Act*, not exceed the proceeds of the sale or disposition, if any, less any costs incurred by Her Majesty in respect of the currency or monetary instruments.

Appeal to Federal Court

30. (1) A person who requests a decision of the Minister under section 25 may, within 90 days after being notified of the decision, appeal the decision by way of an action in the Federal Court in which the person is the plaintiff and the Minister is the defendant.

Ordinary action

(2) The *Federal Courts Act* and the rules made under that Act that apply to ordinary actions apply to actions instituted under subsection (1) except as varied by special rules made in respect of such actions.

Delivery after final order

(3) The Minister of Public Works and Government Services shall give effect to the decision of the Court on being informed of it.

Limit on amount paid

(4) If the currency or monetary instruments were sold or otherwise disposed of under the *Seized Property Management Act*, the total amount that can be paid under subsection (3) shall not exceed the proceeds of the sale or disposition, if any, less any costs incurred by Her Majesty in respect of the currency or monetary instruments.

2000, c. 17, s. 30; 2001, c. 41, s. 139; 2002, c. 8, s. 161.

Service of notices

31. The service of the Commissioner's notice under section 26 or the notice of the Minister's decision under section 27 is sufficient if it is sent by registered mail addressed to the person on whom it is to be served at their latest known address.

Third Party Claims

Interest as owner

32. (1) If currency or monetary instruments have been seized as forfeit under this Part, any person, other than the person in whose possession the currency or monetary instruments were when seized, who claims an interest in the currency or monetary instruments as owner may, within 90 days after the seizure, apply by notice in writing to the court for an order under section 33.

Date of hearing

(2) A judge of the court to which an application is made under this section shall fix a day, not less than 30 days after the date of the filing of the application, for the hearing.

Notice to Commissioner

(3) A person who makes an application under this section shall serve notice of the application and of the hearing on the Commissioner, or an officer designated by the Commissioner for the purpose of this section, not later than 15 days after a day is fixed under subsection (2) for the hearing of the application.

Service of notice

(4) The service of a notice under subsection (3) is sufficient if it is sent by registered mail addressed to the Commissioner.

Definition of "court"

(5) In this section and sections 33 and 34, "court" means

(a) in the Province of Ontario, the Superior Court of Justice;

(b) in the Province of Quebec, the Superior Court;

(c) in the Provinces of Nova Scotia and British Columbia, the Yukon Territory and the Northwest Territories, the Supreme Court;

(d) in the Provinces of New Brunswick, Manitoba, Saskatchewan and Alberta, the Court of Queen's Bench;

(e) in the Provinces of Prince Edward Island and Newfoundland, the Trial Division of the Supreme Court; and

(f) in Nunavut, the Nunavut Court of Justice.

2000, c. 17, s. 32; 2001, c. 41, s. 63.

Order

33. If, on the hearing of an application made under subsection 32(1), the court is satisfied

(a) that the applicant acquired the interest in good faith before the contravention in respect of which the seizure was made,

(b) that the applicant is innocent of any complicity in the contravention of subsection 12(1) that resulted in the seizure and of any collusion in relation to that contravention, and

(c) that the applicant exercised all reasonable care to ensure that any person permitted to obtain possession of the currency or monetary instruments seized would report them in accordance with subsection 12(1),

the applicant is entitled to an order declaring that their interest is not affected by the seizure and declaring the nature and extent of their interest at the time of the contravention.

Appeal

34. (1) A person who makes an application under section 32 or Her Majesty in right of Canada may appeal to the court of appeal from an order made under section 33 and the appeal shall be asserted, heard and decided according to the ordinary procedure governing appeals to the court of appeal from orders or judgments of a court.

Definition of "court of appeal"

(2) In this section, "court of appeal" means, in the province in which an order referred to in subsection (1) is made, the court of appeal for that province as defined in section 2 of the *Criminal Code*.

Delivery after final order

35. (1) The Minister of Public Works and Government Services shall, after the forfeiture of currency or monetary instruments has become final and on being informed by the Commissioner that a person has obtained a final order under section 33 or 34 in respect of the currency or monetary instruments, give to the person

(a) the currency or monetary instruments; or

(b) an amount calculated on the basis of the interest of the applicant in the currency or monetary instruments at the time of the contravention in respect of which they were seized, as declared in the order.

Limit on amount paid

(2) The total amount paid under paragraph (1)(b) shall, if the currency or monetary instruments were sold or otherwise disposed of under the *Seized Property Management Act*, not exceed the proceeds of the sale or disposition, if any, less any costs incurred by Her Majesty in respect of the currency or monetary instruments.

Disclosure of Information

Prohibition

36. (1) Subject to this section and subsection 12(1) of the *Privacy Act*, no official shall disclose the following:

- (a) information set out in a report made under subsection 12(1), whether or not it is completed;
- (b) any other information obtained for the purposes of this Part; or
- (c) information prepared from information referred to in paragraph (a) or (b).

Disclosure of information to a police force

(2) An officer who has reasonable grounds to suspect that information referred to in subsection (1) would be relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence may disclose the information to the appropriate police force.

Disclosure of information to the Centre

(3) An officer may disclose to the Centre information referred to in subsection (1) if the officer has reasonable grounds to suspect that it would be of assistance to the Centre in the detection, prevention or deterrence of money laundering or of the financing of terrorist activities.

Recording of reasons for decision

(3.1) If an officer decides to disclose information under subsection (2) or (3), the officer shall record in writing the reasons for the decision.

Powers, duties and functions

(4) An official may disclose information referred to in subsection (1) for the purpose of exercising powers or performing duties and functions under this Part.

Immunity from compulsory processes

(5) Subject to section 36 of the *Access to Information Act* and section 34 of the *Privacy Act*, an official is required to comply with a subpoena, an order for production of documents, a summons or any other compulsory process only if it is issued in the course of

- (a) criminal proceedings under an Act of Parliament that have been commenced by the laying of an information or the preferring of an indictment; or
- (b) any legal proceedings that relate to the administration or enforcement of this Part.

Definition of "official"

(6) In this section and section 37, "official" means a person who obtained or who has or had access to information referred to in subsection (1) in the course of exercising powers or performing duties and functions under this Part.

2000, c. 17, s. 36; 2001, c. 41, s. 64.

Use of information

37. No official shall use information referred to in subsection 36(1) for any purpose other than exercising powers or performing duties and functions under this Part.

Agreements for Exchange of Information

Agreements with foreign states

38. (1) The Minister, with the consent of the Minister designated for the purpose of section 42, may enter into an agreement or arrangement in writing with the government of a foreign state, or an institution or agency of that state, that has reporting requirements similar to those set out in this Part, whereby

(a) information set out in reports made under subsection 12(1) in respect of currency or monetary instruments imported into Canada from that state will be provided to a department, institution or agency of that state that has powers and duties similar to those of the Canada Customs and Revenue Agency; and

(b) information contained in reports in respect of currency or monetary instruments imported into that state from Canada will be provided to the Canada Customs and Revenue Agency.

Information sent under an agreement

(2) When an agreement or arrangement referred to in subsection (1) is in effect with a foreign state or an institution or agency of that state and a person fulfils the reporting requirements of that state in respect of currency or monetary instruments that are imported into that state from Canada, the person is deemed to have fulfilled the requirements set out in section 12 in respect of the exportation of the currency or monetary instruments.

Information received by the Centre

(3) The information received under an agreement or arrangement referred to in subsection (1) shall be sent to the Centre and, for the purposes of any provision of this Act dealing with the confidentiality of information or the collection or use of information by the Centre, is deemed to be information set out in a report made under section 12.

Delegation

Minister's duties

39. (1) The Minister may authorize an officer or a class of officers to exercise powers or perform duties of the Minister, including any judicial or quasi-judicial powers or duties of the Minister, under this Part.

Commissioner's duties

(2) The Commissioner may authorize an officer or a class of officers to exercise powers or perform duties of the Commissioner under this Part.

PART 3

FINANCIAL TRANSACTIONS AND REPORTS ANALYSIS CENTRE OF CANADA

Object

Object

40. The object of this Part is to establish an independent agency that

(a) acts at arm's length from law enforcement agencies and other entities to which it is authorized to disclose information;

(b) collects, analyses, assesses and discloses information in order to assist in the detection, prevention and deterrence of money laundering and of the financing of terrorist activities;

(c) ensures that personal information under its control is protected from unauthorized disclosure;

(d) operates to enhance public awareness and understanding of matters related to money laundering; and

(e) ensures compliance with Part 1.

2000, c. 17, s. 40; 2001, c. 41, s. 65.

Establishment of the Centre

Centre established

41. (1) There is hereby established the Financial Transactions and Reports Analysis Centre of Canada.

Powers of Centre

(2) The Centre may exercise powers only as an agent of Her Majesty in right of Canada.

Minister is responsible

42. (1) The Minister is responsible for the Centre.

Minister may direct

(2) The Minister may direct the Centre on any matter that, in the Minister's opinion, materially affects public policy or the strategic direction of the Centre.

Statutory instruments

(3) A direction under subsection (2) is not a statutory instrument for the purposes of the *Statutory Instruments Act*.

Advisor

(4) The Minister may from time to time engage the services of any person to advise and report to the Minister on any matter referred to in subsection (2).

Organization and Head Office

Appointment of Director

43. (1) The Governor in Council shall appoint a Director to hold office during pleasure for a term of not more than five years.

Reappointment

(2) Subject to subsection (3), the Director is eligible to be reappointed on the expiry of a first or subsequent term of office.

Limitation

(3) No person shall hold office as Director for terms of more than ten years in the aggregate.

Absence or incapacity

(4) In the event of the absence or incapacity of the Director, or if the office of Director is vacant, the Governor in Council may appoint a qualified person to hold office instead of the Director for a term of not more than six months, and the person shall, while holding that office, have all of the powers, duties and functions of the Director under this Part.

Delegation by Director

(5) The Director may delegate to any person, subject to any terms and conditions that the Director may specify, any power, duty or function conferred on the Director under this Act.

Accident compensation

44. The Director and the employees of the Centre are deemed to be employees for the purposes of the *Government Employees Compensation Act* and to be employed in the public service of Canada for the purposes of any regulations made under section 9 of the *Aeronautics Act*.

Director's powers

45. (1) The Director is the chief executive officer of the Centre, has supervision over and direction of its work and employees and may exercise any power and perform any duty or function of the Centre. The Director has the rank and all the powers of a deputy head of a department.

Directions to authorized persons

(2) The Director may authorize any person to act, under the Director's direction, for the purposes of sections 62 to 64.

Employees

46. An employee of the Centre may exercise any power and perform any duty or function of the Centre if the employee is appointed to serve in the Centre in a capacity appropriate to the exercise of the power or the performance of the duty or function.

Remuneration

47. The Director shall be paid the remuneration fixed by the Governor in Council.

Head office

48. (1) The head office of the Centre is to be in the National Capital Region, as described in the schedule to the *National Capital Act*.

Other offices

(2) The Director may, with the approval of the Minister, establish other offices of the Centre elsewhere in Canada.

Human Resources

Personnel

49. (1) The Director has exclusive authority to

- (a) appoint, lay off or terminate the employment of the employees of the Centre; and
- (b) establish standards, procedures and processes governing staffing, including the appointment, lay-off or termination of the employment of employees otherwise than for cause.

Right of employer

(2) Nothing in the *Public Service Staff Relations Act* shall be construed so as to affect the right or authority of the Director to deal with the matters referred to in paragraph (1)(b).

Personnel management

(3) Subsection 11(2) of the *Financial Administration Act* does not apply to the Centre, and the Director may

- (a) determine the organization of and classify the positions in the Centre;
- (b) set the terms and conditions of employment for employees, including termination of employment for cause, and assign to them their duties;
- (c) notwithstanding section 56 of the *Public Service Staff Relations Act*, in accordance with the mandate approved by the Treasury Board, fix the remuneration of the employees of the Centre; and
- (d) provide for any other matters that the Director considers necessary for effective personnel management in the Centre.

Political partisanship

50. Sections 32 to 34 of the *Public Service Employment Act* apply to the Director and employees of the Centre. For the purposes of those sections, the Director is deemed to be a deputy head and the employees are deemed to be employees as defined in section 2 of that Act.

Authority to Provide Services

Authority to provide services

51. When a department or other portion of the public service of Canada specified in Schedule I to the *Public Service Staff Relations Act* is authorized to provide services to another department or portion of the public service of Canada specified in that Schedule, it may enter into an agreement to provide those services to the Centre if it considers it appropriate to do so.

Disclosure of Information

Director to report to Minister

52. (1) The Director shall report to the Minister from time to time on the exercise of the Director's powers and the performance of his or her duties and functions under this Act.

Director to keep Minister informed

(2) The Director shall keep the Minister informed of any matter that could materially affect public policy or the strategic direction of the Centre, and any other matter that the Minister considers necessary.

Director to disclose other information

(3) The Director shall, at the Minister's request, disclose to the Minister any information that the Minister considers relevant for the purpose of carrying out the Minister's powers and duties under this Act.

Disclosure of information to advisor

(4) The Director shall disclose to a person engaged under subsection 42(4) any information that the person considers relevant for the purpose of advising the Minister on any matter referred to in subsection 42(2).

Limitation

53. The Director may not disclose any information under section 52 that would directly or indirectly identify an individual who provided a report or information to the Centre, or a person or an entity about whom a report or information was provided under this Act.

Reports and Information

Reports and information

54. The Centre

(a) shall receive reports made under section 7, 7.1, 9, 12 or 20, incomplete reports sent under subsection 14(5), reports referred to in section 9.1, information provided to the Centre by any agency of another country that has powers and duties similar to those of the Centre, information provided to the Centre by law enforcement agencies or government institutions or agencies, and other information voluntarily provided to the Centre about suspicions of money laundering or of the financing of terrorist activities;

(b) may collect information that the Centre considers relevant to money laundering activities or the financing of terrorist activities and that is publicly available, including commercially available databases, or that is stored in databases maintained by the federal or provincial governments for purposes related to law enforcement and in respect of which an agreement was entered into under subsection 66(1);

(c) shall analyse and assess the reports and information;

(d) subject to section 6 of the *Privacy Act*, shall retain each report and all information for five years after the date the report is received or the information is received or collected or, where information is disclosed under subsection 55(3), (4) or (5), shall retain the information and any report containing it for eight years after that date; and

(e) notwithstanding the *National Archives of Canada Act*, shall destroy each report received and all information received or collected on the expiry of the applicable period referred to in paragraph (d).

2000, c. 17, s. 54; 2001, c. 12, s. 1, c. 41, s. 66.

Disclosure and Use of Information

Disclosure by Centre prohibited

55. (1) Subject to subsection (3), sections 52, 55.1 and 56.1, subsection 58(1) and section 65 and to subsection 12(1) of the *Privacy Act*, the Centre shall not disclose the following:

(a) information set out in a report made under section 7;

(a.1) information set out in a report made under section 7.1;

(b) information set out in a report made under section 9;

(b.1) information set out in a report referred to in section 9.1;

(c) information set out in a report made under subsection 12(1), whether or not it is completed, or section 20;

(d) information voluntarily provided to the Centre about suspicions of money laundering or of the financing of terrorist activities;

(e) information prepared by the Centre from information referred to in paragraphs (a) to (d);
or

(f) any other information, other than publicly available information, obtained in the administration or enforcement of this Part.

Disclosure by others prohibited

(2) The prohibition in subsection (1) also applies to the following persons:

- (a) any person who, in the course of exercising powers or performing duties or functions under this Part, obtained or has or had access to information referred to in subsection (1); and
- (b) any person or an employee of any person with whom the Centre enters into a contract, memorandum of understanding or other agreement for the provision of goods or services.

Disclosure of designated information

(3) If the Centre, on the basis of its analysis and assessment under paragraph 54(c), has reasonable grounds to suspect that designated information would be relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence, the Centre shall disclose the information to

- (a) the appropriate police force;
 - (b) the Canada Customs and Revenue Agency, if the Centre also determines that the information is relevant to an offence of evading or attempting to evade paying taxes or duties imposed under an Act of Parliament administered by the Minister of National Revenue; and
 - (c) [Repealed, 2001, c. 41, s. 67]
 - (d) the Department of Citizenship and Immigration, if the Centre also determines that the information would promote the objective set out in paragraph 3(1)(i) of the *Immigration and Refugee Protection Act* and is relevant to determining whether a person is a person described in sections 34 to 42 of that Act or to an offence under any of sections 117 to 119, 126 or 127 of that Act.
- (4) and (5) [Repealed, 2001, c. 41, s. 67]

Recording of reasons for decision

(5.1) The Centre shall record in writing the reasons for all decisions to disclose information made under subsection (3).

Exception

(6) A person may disclose any information referred to in subsection (1) if the disclosure is necessary for the purpose of exercising powers or performing duties and functions under this Part.

Definition of "designated information"

(7) For the purposes of subsection (3), "designated information" means, in respect of a financial transaction or an importation or exportation of currency or monetary instruments,

- (a) the name of the client or of the importer or exporter, or any person acting on their behalf;
- (b) the name and address of the place of business where the transaction occurred or the address of the customs office where the importation or exportation occurred, and the date the transaction, importation or exportation occurred;
- (c) the amount and type of currency or monetary instruments involved or, in the case of a transaction, if no currency or monetary instruments are involved, the value of the transaction or the value of the funds that are the subject of the transaction;
- (d) in the case of a transaction, the transaction number and the account number, if any; and

(e) any other similar identifying information that may be prescribed for the purposes of this section.

2000, c. 17, s. 55; 2001, c. 12, s. 2, c. 27, s. 270, c. 41, ss. 67, 123.

Disclosure of information to the Canadian Security Intelligence Service

55.1 (1) If the Centre, on the basis of its analysis and assessment under paragraph 54(c), has reasonable grounds to suspect that designated information would be relevant to threats to the security of Canada, the Centre shall disclose that information to the Canadian Security Intelligence Service.

Recording of reasons for decision

(2) The Centre shall record in writing the reasons for all decisions to disclose information made under subsection (1).

Definition of "designated information"

(3) For the purposes of subsection (1), "designated information" means, in respect of a financial transaction or an importation or exportation of currency or monetary instruments,

(a) the name of the client or of the importer or exporter, or any person or entity acting on their behalf;

(b) the name and address of the place of business where the transaction occurred or the address of the customs office where the importation or exportation occurred, and the date the transaction, importation or exportation occurred;

(c) the amount and type of currency or monetary instruments involved or, in the case of a transaction, if no currency or monetary instruments are involved, the value of the transaction or the value of the funds that are the subject of the transaction;

(d) in the case of a transaction, the transaction number and the account number, if any; and

(e) any other similar identifying information that may be prescribed for the purposes of this section.

2001, c. 41, s. 68.

Agreements and arrangements

56. (1) The Minister may enter into an agreement or arrangement, in writing, with the government of a foreign state, or an international organization established by the governments of foreign states regarding the exchange, between the Centre and any institution or agency of that state or organization that has powers and duties similar to those of the Centre, of information that the Centre, institution or agency has reasonable grounds to suspect would be relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence.

Agreements and arrangements -- Centre

(2) The Centre may, with the approval of the Minister, enter into an agreement or arrangement, in writing, with an institution or agency of a foreign state that has powers and duties similar to those of the Centre, regarding the exchange, between the Centre and the institution or agency, of information that the Centre, institution or agency has reasonable grounds to suspect would be relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence.

Purposes

- (3) Agreements or arrangements entered into under subsection (1) or (2) must
- (a) restrict the use of information to purposes relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence; and
 - (b) stipulate that the information be treated in a confidential manner and not be further disclosed without the express consent of the Centre.

2000, c. 17, s. 56; 2001, c. 41, s. 68.

Disclosure to foreign agencies

56.1 (1) The Centre may disclose designated information to an institution or agency of a foreign state or of an international organization established by the governments of foreign states that has powers and duties similar to those of the Centre, if

- (a) the Centre has reasonable grounds to suspect that the information would be relevant to the investigation or prosecution of a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence; and
- (b) the Minister has, in accordance with subsection 56(1), entered into an agreement or arrangement with that foreign state or international organization regarding the exchange of such information.

Disclosure to foreign agencies

(2) The Centre may disclose designated information to an institution or agency of a foreign state that has powers and duties similar to those of the Centre, if

- (a) the Centre has reasonable grounds to suspect that the information would be relevant to the investigation or prosecution of a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence; and
- (b) the Centre has, in accordance with subsection 56(2), entered into an agreement or arrangement with that institution or agency regarding the exchange of such information.

Request for information

(2.1) For greater certainty, designated information may be disclosed to an institution or agency under subsection (1) or (2) in response to a request made by the institution or agency.

Other disclosure

(3) In order to perform its functions under paragraph 54(c), the Centre may direct queries to an institution or agency in respect of which an agreement referred to in subsection (1) or (2) has been entered into, and in doing so it may disclose designated information.

Recording of reasons for decision

(4) The Centre shall record in writing the reasons for all decisions to disclose information made under paragraph (1)(a) or (2)(a).

Definition of "designated information"

(5) For the purposes of this section, "designated information" means, in respect of a financial transaction or an importation or exportation of currency or monetary instruments,

- (a) the name of the client or of the importer or exporter, or any person or entity acting on their behalf;
- (b) the name and address of the place of business where the transaction occurred or the address of the customs office where the importation or exportation occurred, and the date the transaction, importation or exportation occurred;
- (c) the amount and type of currency or monetary instruments involved or, in the case of a transaction, if no currency or monetary instruments are involved, the value of the transaction or the value of the funds that are the subject of the transaction;
- (d) in the case of a transaction, the transaction number and the account number, if any; and
- (e) any other similar identifying information that may be prescribed for the purposes of this section.

2001, c. 41, s. 68.

Use of information

57. No person who obtained or who has or had access to information referred to in subsection 55(1) in the course of exercising powers or performing duties and functions under this Part shall use the information for a purpose other than exercising those powers or performing those duties and functions.

Feedback, research and public education

58. (1) The Centre may

- (a) inform persons and entities that have provided a report under section 7, 7.1 or 9, or a report referred to in section 9.1, about measures that have been taken with respect to reports under those sections;
- (b) conduct research into trends and developments in the area of money laundering and the financing of terrorist activities and improved ways of detecting, preventing and deterring money laundering and the financing of terrorist activities; and
- (c) undertake measures to inform the public, persons and entities referred to in section 5, authorities engaged in the investigation and prosecution of money laundering offences and terrorist activity financing offences, and others, with respect to
 - (i) their obligations under this Act,
 - (ii) the nature and extent of money laundering in Canada,
 - (ii.1) the nature and extent of the financing of terrorist activities in Canada, and
 - (iii) measures that have been or might be taken to detect, prevent and deter money laundering and the financing of terrorist activities in Canada, and the effectiveness of those measures.

Limitation

(2) The Centre may not disclose any information that would directly or indirectly identify an individual who provided a report or information to the Centre, or a person or an entity about whom a report or information was provided.

2000, c. 17, s. 58; 2001, c. 41, s. 69.

Immunity from compulsory processes

59. (1) Subject to section 36 of the *Access to Information Act* and section 34 of the *Privacy Act*, the Centre, and any person who has obtained or who has or had access to any information or documents in the course of exercising powers or performing duties and functions under this Act, other than Part 2, is required to comply with a subpoena, a summons, an order for production of documents, or any other compulsory process only if it is issued in the course of court proceedings in respect of a money laundering offence, a terrorist activity financing offence or an offence under this Act in respect of which an information has been laid or an indictment preferred or, in the case of an order for production of documents, if it is issued under section 60.1 for the purposes of an investigation in respect of a threat to the security of Canada.

Search warrants

(2) Despite any other Act, no search warrant may be issued in respect of the Centre.

2000, c. 17, s. 59; 2001, c. 41, s. 70.

Limitation on orders for disclosure of information

60. (1) Despite the provisions of any other Act, except sections 49 and 50 of the *Access to Information Act* and sections 48 and 49 of the *Privacy Act*, an order for disclosure of information may be issued in respect of the Centre only under subsection (4) or section 60.1.

Purpose of application

(2) The Attorney General may, for the purposes of an investigation in respect of a money laundering offence or a terrorist activity financing offence, make an application under subsection (3) for an order for disclosure of information.

Application

(3) An application shall be made *ex parte* in writing to a judge and be accompanied by an affidavit sworn on the information and belief of the Attorney General -- or a person specially designated by the Attorney General for that purpose -- deposing to the following matters:

- (a) the offence under investigation;
- (b) the person in relation to whom the information or documents referred to in paragraph (c) are required;
- (c) the type of information or documents -- whether in written form, in the form of a report or record or in any other form -- obtained by or on behalf of the Director in respect of which disclosure is sought;
- (d) the facts relied on to justify the belief, on reasonable grounds, that the person referred to in paragraph (b) has committed or benefited from the commission of a money laundering offence or a terrorist activity financing offence and that the information or documents referred to in paragraph (c) are likely to be of substantial value, whether alone or together with other material, to an investigation in respect of that offence;
- (e) a summary of any information already received from the Centre in respect of the offence; and
- (f) information respecting all previous applications brought under this section in respect of any person being investigated for the offence.

Order for disclosure of information

(4) Subject to the conditions that the judge considers advisable in the public interest, the judge to whom an application is made may order the Director -- or any person specially designated in writing by the Director for the purposes of this section -- to allow a police officer named in the order to have access to and examine all information and documents to which the application relates or, if the judge considers it necessary in the circumstances, to produce the information and documents to the police officer and allow the police officer to remove them, where the judge is satisfied

(a) of the matters referred to in paragraph (3)(d); and

(b) that there are reasonable grounds for believing that it is in the public interest to allow access to the information or documents, having regard to the benefit likely to accrue to the investigation if the access is obtained.

The order must be complied with within the period following the service of the order that the judge may specify.

Execution in another province

(5) A judge may, if the information or documents in respect of which disclosure is sought are in a province other than the one in which the judge has jurisdiction, issue an order for disclosure and the order may be executed in the other province after it has been endorsed by a judge who has jurisdiction in that other province.

Service of order

(6) A copy of the order shall be served on the person to whom it is addressed in the manner that the judge directs or as may be prescribed by rules of court.

Extension of period for compliance with order

(7) A judge who makes an order under subsection (4) may, on application of the Director, extend the period within which it is to be complied with.

Objection to disclosure of information

(8) The Director -- or any person specially designated in writing by the Director for the purposes of this section -- may object to the disclosure of any information or document in respect of which an order under subsection (4) has been made by certifying orally or in writing that it should not be disclosed on the ground that

(a) the Director is prohibited from disclosing the information or document by any bilateral or international treaty, convention or other agreement to which the Government of Canada is a signatory respecting the sharing of information related to a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence;

(b) a privilege is attached by law to the information or document;

(c) the information or document has been placed in a sealed package pursuant to law or an order of a court of competent jurisdiction; or

(d) disclosure of the information or document would not, for any other reason, be in the public interest.

Determination of objection

(9) An objection made under subsection (8) may be determined, on application, in accordance with subsection (10), by the Chief Justice of the Federal Court, or by any other judge of that Court that the Chief Justice may designate to hear those applications.

Judge may examine information

(10) A judge who is to determine an objection may, if the judge considers it necessary to determine the objection, examine the information or document in relation to which the objection is made. The judge shall grant the objection and order that disclosure be refused if the judge is satisfied of any of the grounds mentioned in subsection (8).

Limitation period

(11) An application under subsection (9) shall be made within 10 days after the objection is made or within such greater or lesser period as the Chief Justice of the Federal Court, or any other judge of that Court that the Chief Justice may designate to hear those applications, considers appropriate in the circumstances.

Appeal to Federal Court of Appeal

(12) An appeal lies from a determination under subsection (9) to the Federal Court of Appeal.

Limitation period for appeal

(13) An appeal under subsection (12) shall be brought within 10 days after the date of the determination appealed from or within such further time as the Federal Court of Appeal considers appropriate in the circumstances.

Special rules for hearings

(14) An application under subsection (9) or an appeal brought in respect of that application shall be heard in private and, on the request of the person objecting to the disclosure of the information or documents, be heard and determined in the National Capital Region described in the schedule to the *National Capital Act*.

Ex parte representations

(15) During the hearing of an application under subsection (9) or an appeal brought in respect of that application, the person who made the objection in respect of which the application was made or the appeal was brought shall, on the request of that person, be given the opportunity to make representations *ex parte*.

Copies

(16) Where any information or document is examined or provided under subsection (4), the person by whom it is examined or to whom it is provided or any employee of the Centre may make, or cause to be made, one or more copies of it and any copy purporting to be certified by the Director or an authorized person to be a copy made under this subsection is evidence of the nature and content of the original information or document and has the same probative force as the original information or document would have had if it had been proved in the ordinary way.

Definitions

(17) The definitions in this subsection apply in this section.

"Attorney General" « *procureur général* »

"Attorney General" means the Attorney General as defined in section 2 of the *Criminal Code*.

"judge" « *juge* »

"judge" means a provincial court judge as defined in section 2 of the *Criminal Code* or a judge as defined in subsection 462.3(1) of that Act.

"police officer" « *policier* »

"police officer" means any officer, constable or other person employed for the preservation and maintenance of the public peace.

2000, c. 17, s. 60; 2001, c. 12, s. 3, c. 32, s. 72, c. 41, s. 71.

Application for production order

60.1 (1) The Director of the Canadian Security Intelligence Service, or any employee of the Canadian Security Intelligence Service, may, for the purposes of an investigation in respect of a threat to the security of Canada, after having obtained the approval of the Solicitor General of Canada, make an application under subsection (2) to a judge for an order for disclosure of information.

Matters to be specified in application for production order

(2) An application shall be made *ex parte* in writing and be accompanied by an affidavit of the applicant deposing to the following matters:

(a) the person or entity in relation to whom the information or documents referred to in paragraph (b) are required;

(b) the type of information or documents -- whether in written form, in the form of a report or record or in any other form -- obtained by or on behalf of the Director in respect of which disclosure is sought;

(c) the facts relied on to justify the belief, on reasonable grounds, that a production order under this section is required to enable the Canadian Security Intelligence Service to investigate a threat to the security of Canada;

(d) a summary of any information already received from the Centre in respect of the threat to the security of Canada; and

(e) information respecting all previous applications brought under this section in respect of any person or entity being investigated in relation to the threat to the security of Canada.

Order for disclosure of information

(3) Subject to the conditions that the judge considers advisable in the public interest, the judge to whom an application is made may order the Director -- or any person specially designated in writing by the Director for the purpose of this section -- to allow an employee of the Canadian Security Intelligence Service named in the order to have access to and examine all information and documents to which the application relates or, if the judge considers it necessary in the circumstances, to produce the information and documents to the employee and allow the employee to remove them, if the judge is satisfied

(a) of the matters referred to in subsection (2); and

(b) that there are reasonable grounds for believing that it is in the public interest to allow access to the information or documents, having regard to the benefit likely to accrue to the investigation if the access is obtained.

The order must be complied with within the period following the service of the order that the judge may specify.

Maximum duration of production order

(4) A production order shall not be issued under subsection (3) for a period exceeding sixty days.

Service of order

(5) A copy of the order shall be served on the person or entity to whom it is addressed in the manner that the judge directs or as may be prescribed by rules of court.

Extension of period for compliance with order

(6) A judge who makes an order under subsection (3) may, on application of the Director, extend the period within which it is to be complied with.

Objection to disclosure of information

(7) The Director -- or any person specially designated in writing by the Director for the purposes of this section -- may object to the disclosure of any information or document in respect of which an order under subsection (3) has been made by certifying orally or in writing that it should not be disclosed on the ground that

- (a) the Director is prohibited from disclosing the information or document by any bilateral or international treaty, convention or other agreement to which the Government of Canada is a signatory respecting the sharing of information related to a money laundering offence or a terrorist activity financing offence, or an offence that is substantially similar to either offence;
- (b) a privilege is attached by law to the information or document;
- (c) the information or document has been placed in a sealed package pursuant to law or an order of a court of competent jurisdiction; or
- (d) disclosure of the information or document would not, for any other reason, be in the public interest.

Determination of objection

(8) An objection made under subsection (7) may be determined, on application, in accordance with subsection (9), by the Chief Justice of the Federal Court, or by any other judge of that Court that the Chief Justice may designate to hear those applications.

Judge may examine information

(9) A judge who is to determine an objection may, if the judge considers it necessary to determine the objection, examine the information or document in relation to which the objection is made. The judge shall grant the objection and order that disclosure be refused if the judge is satisfied of any of the grounds mentioned in subsection (7).

Limitation period

(10) An application under subsection (8) shall be made within 10 days after the objection is made or within such greater or lesser period as the Chief Justice of the Federal Court, or any other judge of that Court that the Chief Justice may designate to hear those applications, considers appropriate in the circumstances.

Appeal to Federal Court of Appeal

(11) An appeal lies from a determination under subsection (8) to the Federal Court of Appeal.

Limitation period for appeal

(12) An appeal under subsection (11) shall be brought within 10 days after the date of the determination appealed from or within such further time as the Federal Court of Appeal considers appropriate in the circumstances.

Special rules for hearings

(13) An application under subsection (8) or an appeal brought in respect of that application shall be heard in private and, on the request of the person objecting to the disclosure of the information or documents, be heard and determined in the National Capital Region described in the schedule to the *National Capital Act*.

Ex parte representations

(14) During the hearing of an application under subsection (8) or an appeal brought in respect of that application, the person who made the objection in respect of which the application was made or the appeal was brought shall, on the request of that person, be given the opportunity to make representations *ex parte*.

Copies

(15) Where any information or document is examined or provided under subsection (3), the person by whom it is examined or to whom it is provided or any employee of the Centre may make, or cause to be made, one or more copies of it and any copy purporting to be certified by the Director or an authorized person to be a copy made under this subsection is evidence of the nature and content of the original information or document and has the same probative force as the original information or document would have had if it had been proved in the ordinary way.

Definition of "judge"

(16) In this section, "judge" means a judge of the Federal Court designated by the Chief Justice of the Federal Court for the purposes of the *Canadian Security Intelligence Service Act*.

2001, c. 41, s. 72.

Hearing of applications

60.2 An application under subsection 60.1(2) to a judge for a production order, or an objection under subsection 60.1(7), shall be heard in private in accordance with regulations made under section 28 of the *Canadian Security Intelligence Service Act*.

2001, c. 41, s. 72.

Certain provisions not applicable

61. Section 43 of the *Customs Act*, section 231.2 of the *Income Tax Act* and section 289 of the *Excise Tax Act* do not apply to the Centre or to its employees in their capacity as employees.

Compliance Measures

To ensure compliance

62. (1) An authorized person may, from time to time, examine the records and inquire into the business and affairs of any person or entity referred to in section 5 for the purpose of ensuring compliance with Part 1, and for that purpose may

- (a) at any reasonable time, enter any premises, other than a dwelling-house, in which the authorized person believes, on reasonable grounds, that there are records relevant to ensuring compliance with Part 1;

(b) use or cause to be used any computer system or data processing system in the premises to examine any data contained in or available to the system;

(c) reproduce any record, or cause it to be reproduced from the data, in the form of a printout or other intelligible output and remove the printout or other output for examination or copying; and

(d) use or cause to be used any copying equipment in the premises to make copies of any record.

Assistance to Centre

(2) The owner or person in charge of premises referred to in subsection (1) and every person found there shall give the authorized person all reasonable assistance to enable them to carry out their responsibilities and shall furnish them with any information with respect to the administration of Part 1 or the regulations under it that they may reasonably require.

Warrant required to enter dwelling-house

63. (1) If the premises referred to in subsection 62(1) is a dwelling-house, the authorized person may not enter it without the consent of the occupant except under the authority of a warrant issued under subsection (2).

Authority to issue warrant

(2) A justice of the peace may issue a warrant authorizing the authorized person to enter a dwelling-house, subject to any conditions that may be specified in the warrant, if on *ex parte* application the justice is satisfied by information on oath that

(a) there are reasonable grounds to believe that there are in the premises records relevant to ensuring compliance with Part 1;

(b) entry to the dwelling-house is necessary for any purpose that relates to ensuring compliance with Part 1; and

(c) entry to the dwelling-house has been refused or there are reasonable grounds for believing that entry will be refused.

Areas that may be entered

(3) For greater certainty, an authorized person who enters a dwelling-house under authority of a warrant may enter only a room or part of a room in which the person believes on reasonable grounds that a person or an entity referred to in section 5 is carrying on its business, profession or activity.

Definition of "judge"

64. (1) In this section, "judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court.

No examination or copying of certain documents when privilege claimed

(2) If an authorized person acting under section 62 or 63 is about to examine or copy a document in the possession of a legal counsel who claims that a named client or former client of the legal counsel has a solicitor-client privilege in respect of the document, the authorized person shall not examine or make copies of the document.

Retention of documents

(3) A legal counsel who claims privilege under subsection (2) shall

(a) place the document, together with any other document in respect of which the legal counsel at the same time makes the same claim on behalf of the same client, in a package and suitably seal and identify the package or, if the authorized person and the legal counsel agree, allow the pages of the document to be initialled and numbered or otherwise suitably identified; and

(b) retain it and ensure that it is preserved until it is produced to a judge as required under this section and an order is issued under this section in respect of the document.

Application to judge

(4) If a document has been retained under subsection (3), the client or the legal counsel on behalf of the client may

(a) within 14 days after the day the document was begun to be so retained, apply, on three days notice of motion to the Deputy Attorney General of Canada, to a judge for an order

(i) fixing a day, not later than 21 days after the date of the order, and a place for the determination of the question whether the client has solicitor-client privilege in respect of the document, and

(ii) requiring the production of the document to the judge at that time and place;

(b) serve a copy of the order on the Deputy Attorney General of Canada; and

(c) if the client or legal counsel has served a copy of the order under paragraph (b), apply at the appointed time and place for an order determining the question.

Disposition of application

(5) An application under paragraph (4)(c) shall be heard in private and, on the application, the judge

(a) may, if the judge considers it necessary to determine the question, inspect the document and, if the judge does so, the judge shall ensure that it is repackaged and resealed;

(b) shall decide the question summarily and

(i) if the judge is of the opinion that the client has a solicitor-client privilege in respect of the document, order the release of the document to the legal counsel, or

(ii) if the judge is of the opinion that the client does not have a solicitor-client privilege in respect of the document, order that the legal counsel make the document available for examination or copying by the authorized person; and

(c) at the same time as making an order under paragraph (b), deliver concise reasons that identify the document without divulging the details of it.

Order to deliver

(6) If a document is being retained under subsection (3) and a judge, on the application of the Attorney General of Canada, is satisfied that no application has been made under paragraph (4)(a) or that after having made that application no further application has been made under paragraph (4)(c), the judge shall order that the legal counsel make the document available for examination or copying by the authorized person.

Application to another judge

(7) If the judge to whom an application has been made under paragraph (4)(a) cannot act or continue to act in the application under paragraph (4)(c) for any reason, the application under paragraph (4)(c) may be made to another judge.

Costs

(8) No costs may be awarded on the disposition of an application under this section.

Prohibition

(9) The authorized person shall not examine or make copies of any document without giving a reasonable opportunity for a claim of solicitor-client privilege to be made under subsection (2).

Prohibition

(9.1) The authorized person shall not examine or make copies of a document in the possession of a person, not being a legal counsel, who contends that a claim of solicitor-client privilege may be made in respect of the document by a legal counsel, without giving that person a reasonable opportunity to contact that legal counsel to enable a claim of solicitor-client privilege to be made.

Waiver of claim of privilege

(10) If a legal counsel has made a claim that a named client or former client of the legal counsel has a solicitor-client privilege in respect of a document, the legal counsel shall at the same time communicate to the authorized person the client's latest known address so that the authorized person may endeavour to advise the client of the claim of privilege that has been made on their behalf and may by doing so give the client an opportunity, if it is practicable within the time limited by this section, to waive the privilege before the matter is to be decided by a judge.

2000, c. 17, s. 64; 2001, c. 12, s. 4.

Disclosure to law enforcement agencies

65. The Centre may disclose to the appropriate law enforcement agencies any information of which it becomes aware under section 62 or 63 and that it suspects on reasonable grounds is evidence of a contravention of Part 1.

Contracts and Agreements

Power to enter into

66. (1) The Centre may, for the purpose of exercising its powers or performing its duties and functions under this Part, enter into contracts, memoranda of understanding and other agreements with a department or an agency of the Government of Canada or the government of a province and with any other person or organization, whether inside or outside Canada, in its own name or in the name of Her Majesty in right of Canada.

Agreements re databases

(2) Agreements relating to the Centre's collection of information from databases referred to in paragraph 54(b) must specify the nature of and limits with respect to the information that the Centre may collect from those databases.

Limitation

(3) Despite subsection (1), only the Minister may enter into an agreement or arrangement referred to in subsection 56(1).

Choice of service providers

67. Despite section 9 of the *Department of Public Works and Government Services Act*, the Centre may, with the approval of the Governor in Council given on the recommendation of the Treasury Board, procure goods and services, including legal services, from outside the public service of Canada.

Legal Proceedings

Centre

68. Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Centre, whether in its own name or in the name of Her Majesty in right of Canada, may be brought or taken by or against the Centre in the name of the Centre in any court that would have jurisdiction if the Centre were a corporation that is not an agent of Her Majesty.

No liability

69. No action lies against Her Majesty, the Minister, the Director, any employee of the Centre or any person acting under the direction of the Director for anything done or omitted to be done in good faith in the administration or discharge of any powers, duties or functions that under this Act are intended or authorized to be exercised or performed.

Audit

Audit

70. (1) All receipts and expenditures of the Centre are subject to examination and audit by the Auditor General of Canada.

Use and disclosure

(2) The Auditor General of Canada and every person acting on behalf of or under the direction of the Auditor General of Canada shall not use or disclose any information referred to in subsection 55(1) that they have obtained, or to which they have had access, in the course of exercising powers or performing duties and functions under this Act or the *Auditor General Act*, except for the purposes of exercising those powers or performing those duties and functions.

Reports

Annual report

71. (1) The Director shall, on or before September 30 of each year following the Centre's first full year of operations, submit an annual report on the operations of the Centre for the preceding year to the Minister, and the Minister shall table a copy of the report in each House of Parliament on any of the first 30 days on which that House is sitting after the Minister receives the report.

Human rights and freedoms

(2) The report referred to in subsection (1) shall include a description of the management guidelines and policies of the Centre for the protection of human rights and freedoms.

Review of Act by parliamentary committee

*72. Within five years after this section comes into force, the administration and operation of this Act shall be reviewed by the committee of Parliament that may be designated or established by Parliament for that purpose and the committee shall submit a report to Parliament that includes a statement of any changes to this Act or its administration that the committee recommends.

*[Note: Section 72 in force July 5, 2000, *see* SI/2000-55.]

PART 4 REGULATIONS

Regulations

73. (1) The Governor in Council may, on the recommendation of the Minister, make any regulations that the Governor in Council considers necessary for carrying out the purposes and provisions of this Act, including regulations

- (a) describing businesses, professions and activities for the purpose of paragraph 5(i);
- (b) describing businesses and professions for the purpose of paragraph 5(j), and the activities to which that paragraph applies;
- (c) describing the activities to which paragraph 5(l) applies;
- (d) specifying the types of records to be kept and retained under section 6 and the information to be included in them;
- (e) specifying the period for which, and the methods by which, records referred to in paragraph (d) are to be retained;
- (e.1) specifying the information to be contained in a report under section 7 or 7.1 or subsection 9(1);
- (f) specifying measures that persons or entities are to take to identify any person or entity in respect of which a record is required to be kept or a report made;
- (g) defining "casinos", "courier" and "monetary instruments";
- (h) specifying the form and manner of reporting currency and monetary instruments for the purpose of subsection 12(1), and the information to be contained in the form, and specifying the period within which the reporting must be made; and
- (i) prescribing anything else that by this Act is to be prescribed.

(2) and (3) [Repealed, 2001, c. 41, s. 73]

2000, c. 17, s. 73; 2001, c. 41, s. 73.

PART 5 OFFENCES AND PUNISHMENT

General offences

74. Every person or entity that knowingly contravenes section 6, subsection 12(4) or 36(1), section 37, subsection 55(1) or (2), section 57 or subsection 62(2) or 64(3) or the regulations is guilty of an offence and liable

- (a) on summary conviction, to a fine of not more than \$50,000 or to imprisonment for a term of not more than six months, or to both; or
- (b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than five years, or to both.

Reporting -- sections 7 and 7.1

75. (1) Every person or entity that knowingly contravenes section 7 or 7.1 is guilty of an offence and liable

(a) on summary conviction,

(i) for a first offence, to a fine of not more than \$500,000 or to imprisonment for a term of not more than six months, or to both, and

(ii) for a subsequent offence, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both; or

(b) on conviction on indictment, to a fine of not more than \$2,000,000 or to imprisonment for a term of not more than five years, or to both.

Defence for employees

(2) No employee of a person or an entity shall be convicted of an offence under subsection (1) in respect of a transaction or proposed transaction that they reported to their superior or in respect of property whose existence they reported to their superior.

2000, c. 17, s. 75; 2001, c. 41, s. 74.

Disclosure

76. Every person or entity that contravenes section 8

(a) is guilty of an offence punishable on summary conviction; or

(b) is guilty of an indictable offence and liable to imprisonment for a term of not more than two years.

Reporting -- section 9

77. (1) Every person or entity that contravenes subsection 9(1) or (3) is guilty of an offence and liable on summary conviction to a fine of not more than \$500,000 for a first offence and of not more than \$1,000,000 for each subsequent offence.

Due diligence defence

(2) No person or entity shall be convicted of an offence under subsection (1) if they exercised due diligence to prevent its commission.

Liability of officers and directors

78. If a person or an entity commits an offence under this Act, any officer, director or agent of the person or entity who directed, authorized, assented to, acquiesced in or participated in its commission is a party to and guilty of the offence and liable on conviction to the punishment provided for the offence, whether or not the person or entity has been prosecuted or convicted.

Offence by employee or agent

79. In a prosecution for an offence under section 75 or 77,

(a) it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence; and

(b) no person shall be found guilty of the offence if they establish that they exercised due diligence to prevent its commission.

Exemption

80. A peace officer or a person acting under the direction of a peace officer is not guilty of an offence under any of sections 74 to 77 if the peace officer or person does any of the things mentioned in those sections for the purpose of investigating a money laundering offence or a terrorist activity financing offence.

2000, c. 17, s. 80; 2001, c. 41, s. 75.

Time limitation

81. Proceedings under paragraph 74(a), 75(1)(a) or 76(a) or subsection 77(1) may be instituted within, but not after, one year after the time when the subject-matter of the proceedings arose.

Venue

82. A complaint or information in respect of an offence under this Act may be heard, tried or determined by a court if the accused is resident or carrying on business within the territorial jurisdiction of the court although the subject-matter of the complaint or information did not arise in that territorial jurisdiction.

PART 6

TRANSITIONAL PROVISION, CONSEQUENTIAL AND CONDITIONAL AMENDMENTS, REPEAL AND COMING INTO FORCE

Transitional Provision

Regulations remain in effect

*83. Every regulation made under the *Proceeds of Crime (money laundering) Act*, chapter 26 of the Statutes of Canada, 1991, that is in force immediately before the coming into force of this Act shall be deemed to have been made under this Act and shall remain in force until it is repealed or amended pursuant to this Act.

*[Note: Section 73 in force July 5, 2000, *see* SI/2000-55.]

Consequential Amendments

84. to 96. [Amendments]

Conditional Amendments

97. [Amendments]

Repeal

98. [Repeal]

Coming into Force

Coming into force

*99. The provisions of this Act, other than section 97, come into force on a day or days to be fixed by order of the Governor in Council.

*[Note: Section 97 in force on assent June 29, 2000; sections 1 to 4, 38 and 40 to 44, subsection 45(1), sections 46 to 53, paragraphs 54(b) to (d), subsections 55(1), (2) and (6) and sections 56 to 61, 66 to 82, 84, 85, 90 and 91 in force July 5, 2000, *see* SI/2000-55; sections 5, 7, 8, 10 and 11, the portion of section 54 before paragraph (b), subsections 55(3) to (5.1) and (7) and section 89 in force October 28, 2001, *see* SI/2001-88; sections 6 and 9, subsection 45(2) and sections 62 to 65, 83 and 98 in force June 12, 2002, *see* SI/2002-84; sections 12 to 37 and 39 in force January 6, 2003, *see* SI/2002-153.]