

Defence Production Act (R.S., 1985, c. D-1)

Act current to January 30th, 2011

Attention: See coming into force provision and notes, where applicable.

Defence Production Act

D-1

An Act respecting defence production

SHORT TITLE

Short title

1. This Act may be cited as the *Defence Production Act*.

R.S., c. D-2, s. 1.

INTERPRETATION

Definitions

2. In this Act,

"Account"

« *compte* »

"Account" means the Defence Production Loan Account established under section 18;

"associated government"

« *gouvernement associé* »

"associated government" means Her Majesty's Government in the United Kingdom, any other government of the Commonwealth, the government of a country that is a member of the North Atlantic Treaty Organisation or the government of any other country designated by the Governor in Council as being a country the defence of which is vital to the defence of Canada;

"construct"

« *construction* »

"construct" includes repair, maintain, improve or extend;

"defence contract"

« *contrat de défense* »

"defence contract" means

(a) a contract with Her Majesty or an agent of Her Majesty, or with an associated government, that in any way relates to defence supplies or to defence projects or to the designing, manufacturing, producing, constructing, finishing, assembling,

transporting, repairing, maintaining, servicing or storing of, or dealing in, defence supplies or defence projects, and
(b) a defence subcontract;

"defence projects"
« *ouvrages de défense* »

"defence projects" means buildings, aerodromes, airports, dockyards, roads, defence fortifications or other military works, or works required for the production, maintenance or storage of defence supplies;

"defence subcontract"
« *sous-contrat de défense* »

"defence subcontract" means a contract or arrangement between any persons whomever,
(a) to perform all or any part of the work or service or make or furnish any article or material for the purpose of any other defence contract,
(b) under which any amount payable is contingent on the entry into of any other defence contract or determined with reference to any amount payable under or otherwise by reference to any other defence contract, or
(c) under which any part of the services performed or to be performed consists of soliciting, attempting to negotiate or negotiating any other defence contract or soliciting or negotiating for the purchase or sale of any articles, materials or services required to fulfil any other defence contract,

and, for greater certainty but not so as to limit the foregoing, for the purposes of this definition the expression "other defence contract" includes a defence subcontract;

"defence supplies"
« *matériel de défense* »

"defence supplies" means
(a) arms, ammunition, implements of war, vehicles, mechanical and other equipment, watercraft, amphibious craft, aircraft, animals, articles, materials, substances and things required or used for the purposes of the defence of Canada or for cooperative efforts for defence being carried on by Canada and an associated government,
(b) ships of all kinds, and
(c) articles, materials, substances and things of all kinds used for the production or supply of anything mentioned in paragraph (a) or (b) or for the construction of defence projects;

"Department"
« *ministère* »

"Department" means the Department of Public Works and Government Services;

"government issue"
« *fournitures d'État* »

"government issue" means machinery, machine tools, equipment or defence supplies furnished by the Minister or by an agent of Her Majesty on behalf of Her Majesty or on behalf of an associated government or acquired or purchased on behalf of Her Majesty or on behalf of an associated government with funds provided by the Minister or by an agent of Her Majesty or by an associated government;

"Minister"
« *ministre* »

"Minister" means the Minister of Public Works and Government Services;

"order"
« *arrêté* » ou « *décret* »

"order" means a general or specific order, requirement, direction or prescription in writing made or issued under this Act or a regulation;

"price"
« *prix* »

"price" includes rate or charge for any service;

"royalties"
« *redevances* »

"royalties" includes

(a) licence fees and all other payments analogous to royalties, whether or not payable under any contract, that are calculated as a percentage of the cost or sale price of defence supplies or as a fixed amount per article produced or that are based on the quantity or number of articles produced or sold or on the volume of business done, and

(b) claims for damages for the infringement or use of any registered topography within the meaning of the *Integrated Circuit Topography Act* or of any patent or registered industrial design;

"sale"
« *vente* »

"sale" includes consignment or other disposition of materials and the supplying of any service.

R.S., 1985, c. D-1, s. 2; 1994, c. 47, s. 220; 1996, c. 16, ss. 60, 61; 2004, c. 25, s. 123(F).

PART 1

PROCUREMENT OF DEFENCE SUPPLIES

STAFF

Appointment and employment

3. (1) Such officers, clerks and employees as are necessary for the proper conduct of the business of the Department under this Act may be appointed in the manner authorized by law but the Minister may

(a) with the approval of the Treasury Board, employ such technical or other temporary employees as the Minister deems necessary and, with its approval, fix the remuneration of, and prescribe the travel or other expenses that may be incurred by, those employees; and

(b) employ any person to hold a position under this Act for a period not exceeding sixty days and fix the remuneration of, and prescribe the travel or other expenses that may be incurred by, that person.

Exception

(2) Where the Governor in Council decides that it is not practicable or is not in the public interest to apply subsection (1) to any position or employee or any class thereof, the Governor in Council may exclude that position or employee or that class in whole or in part from the provisions of subsection (1) and may make such regulations as the Governor in Council deems advisable with respect to employment therein, including appointment, organization, classification, rates of compensation and terms and conditions of employment.

R.S., c. D-2, s. 3.

Minister's functions dischargeable by persons deputed by Minister

4. The Minister may authorize any person, on behalf and under the control and direction of the Minister, to do any act or thing or to exercise any power that the Minister may do or exercise under this Act.

R.S., c. D-2, s. 4.

Appointment of persons to advise and aid Minister

5. The Governor in Council may appoint advisers and establish advisory and other boards, composed of such members as the Governor in Council may appoint, to advise or aid the Minister, which advisers and boards are to perform such duties and exercise such powers as he may designate, and may fix the remuneration and expenses to be paid to persons appointed under this section.

R.S., c. D-2, s. 5.

Corporations

6. (1) If the Minister considers that it is likely to facilitate the carrying out of the purposes and provisions of this Act, the Minister may, with the approval of the Governor in Council, procure the incorporation of any one or more corporations for the purpose of undertaking or carrying out any acts or things that the Minister is authorized to undertake or carry out under this Act.

Removal and appointment

(2) The Minister may remove any members, directors or officers of a corporation incorporated under this section at any time and may appoint others in their stead or may appoint additional persons as members thereof.

Agent of Her Majesty

(3) A corporation incorporated under this section is for all purposes an agent of Her Majesty and it may exercise its powers only as an agent of Her Majesty.

R.S., c. D-2, s. 6.

Legal proceedings

7. Actions, suits or proceedings in respect of any right or obligation that a corporation incorporated under section 6 acquires or incurs on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or

against the corporation in the name of the corporation in any court that would have jurisdiction if the corporation were not an agent of Her Majesty.

R.S., c. D-2, s. 6.

Audit

8. The accounts of a corporation incorporated under section 6 shall be audited by the Auditor General of Canada.

R.S., c. D-2, s. 6.

Minister may contract with corporation

9. (1) Notwithstanding that a corporation is an agent of Her Majesty, the Minister may, on behalf of Her Majesty, enter into a contract under this Act with the corporation as if it were not an agent of Her Majesty.

Contract with person to act as agent of Her Majesty

(2) The Minister may, with the approval of the Governor in Council, enter into a contract with a person authorizing that person to act, under the control and direction of the Minister, as an agent of Her Majesty, for any of the purposes for which the Minister is authorized to act on behalf of Her Majesty under this Act.

R.S., c. D-2, s. 7.

POWERS AND DUTIES OF THE MINISTER

Powers relating to all departments

10. (1) Subject to this Act, the Minister may exercise the powers conferred by this Act on the Minister in relation to defence supplies or defence projects required for the purposes of any department in, or portion of, the federal public administration.

Powers relating to National Defence

(2) The Minister shall have exclusive authority to buy or otherwise acquire defence supplies and construct defence projects required by the Department of National Defence, except

- (a) defence projects to be constructed by persons in the employ of Her Majesty; and
- (b) such defence supplies or defence projects as the Minister of National Defence or any other Minister designated by the Governor in Council may procure or construct at the request of the Minister.

Powers conferred by other Acts

(3) The Minister may exercise powers and carry out duties and functions conferred or imposed on the Minister by or pursuant to any other Act.

R.S., 1985, c. D-1, s. 10; 2003, c. 22, s. 158(E).

Acts on behalf of associated government

11. The Minister, if authorized by the Governor in Council to do so, may do or undertake, on behalf of an associated government, any act or thing that the Minister is authorized to do or undertake by this Act on behalf of Her Majesty.

R.S., c. D-2, s. 9.

ORGANIZATION OF INDUSTRY FOR DEFENCE

Duties of Minister

12. The Minister shall examine into, organize, mobilize and conserve the resources of Canada contributory to, and the sources of supply of, defence supplies and the agencies and facilities available for the supply thereof and for the construction of defence projects and shall explore, estimate and provide for the fulfilment of the needs, present and prospective, of the Government and the community with respect thereto and generally shall take steps to mobilize, conserve and coordinate all economic and industrial facilities in respect of defence supplies and defence projects and the supply or construction thereof.

R.S., c. D-2, s. 10.

Minister may require returns to be made

13. (1) The Minister may, by notice in writing, require any person referred to in subsection (2) to make periodical or other returns, at such times and containing such particulars as may be specified in the notice, with respect to defence supplies produced, dealt in or controlled by the person or that the person holds, has contracted for or contemplates acquiring, and the sources of supply thereof, and with respect to the facilities or accommodation that the person has available for or that are adaptable to the production or storage of defence supplies or the construction of defence projects.

Persons who are to make returns

(2) The Minister may require the returns referred to in subsection (1) to be made by any person who

(a) produces, deals in or has control of defence supplies or constructing defence projects; or

(b) carries on a business or possesses accommodation or facilities that, in the opinion of the Minister, is or are suitable for or can be adapted to producing, dealing in or storing defence supplies or constructing defence projects.

R.S., c. D-2, s. 11.

Other departments to assist Minister in obtaining information

14. Where a Government department has, under or pursuant to any Act, power to obtain, for any purpose, information as to matters with respect to which the Minister is empowered to require returns to be made, that department shall, if so required by the Minister, exercise that power for the purpose of assisting the Minister in obtaining any such information.

R.S., c. D-2, s. 12.

Stock-piling

15. The Minister may, on behalf of Her Majesty and subject to this Act, acquire, store, maintain, transport, sell, exchange or otherwise dispose of such materials or substances as may be designated by the Governor in Council as materials or substances essential to the needs of the community of which it is advisable to maintain stocks in order to safeguard against possible shortages thereof.

R.S., 1985, c. D-1, s. 15; 2004, c. 25, s. 124(F).

DEFENCE PROCUREMENT

Ministerial powers of procurement and disposal

16. The Minister may, on behalf of Her Majesty and subject to this Act,

- (a) buy or otherwise acquire, utilize, store, transport, sell, exchange or otherwise dispose of defence supplies;
- (b) manufacture or otherwise produce, finish, assemble, process, develop, repair, maintain or service defence supplies or manage and operate facilities therefor;
- (c) construct or acquire defence projects and sell, exchange or otherwise dispose of them;
- (d) arrange for the performance of professional or commercial services;
- (e) purchase or otherwise acquire, sell, exchange or otherwise dispose of real or personal property or any interest in real or personal property, or an immovable or a movable or any right in an immovable or a movable, that, in the opinion of the Minister, is or is likely to be necessary or desirable for any of the purposes mentioned in paragraph (a), (b) or (c);
- (f) make loans or advances to or guarantee repayment of loans or advances made to a person
 - (i) for the purpose of providing assistance for the construction, acquisition, extension or improvement of capital equipment or works by, or to provide working capital for, that person for the manufacture, production, finishing, assembling, processing, development, storage, transportation, repairing, maintenance or servicing of defence supplies or for the construction or operation of defence projects, or
 - (ii) by way of advance payment on account of or to enable that person to carry out any contract entered into with the Minister under this Act or any defence contract; and
- (g) do all such things as appear to the Minister to be incidental to or necessary or expedient for the matters referred to in the foregoing provisions of this section or as may be authorized by the Governor in Council with respect to the procurement, construction or disposal of defence supplies or defence projects.

R.S., 1985, c. D-1, s. 16; 2004, c. 25, s. 125.

Expenditures from C.R.F.

17. There may be expended from the Consolidated Revenue Fund amounts for the following purposes:

- (a) to pay the cost of acquisition, storage, maintenance or transportation of stocks of materials or substances purchased pursuant to section 15, or stocks of defence supplies acquired under section 16, that the Minister deems it is advisable to maintain; and
- (b) to pay the cost of acquisition, storage or maintenance of defence supplies requisitioned for payment out of an appropriation or by an agent of Her Majesty or to

be paid for by an associated government, such amounts if paid to be recovered from the appropriation or from the agent or associated government.

R.S., c. D-2, s. 15; 1980-81-82-83, c. 17, s. 12.

Expenditures from C.R.F.

18. (1) There may be paid from the Consolidated Revenue Fund amounts for loans or advances authorized under this Act for any purpose other than to assist in the construction, acquisition, extension or improvement of capital equipment or works by any person.

Defence Production Loan Account

(2) There shall be established in the accounts of Canada, for the purposes of this section, an account to be known as the Defence Production Loan Account and to which shall be charged all moneys to be paid pursuant to subsection (1).

1980-81-82-83, c. 17, s. 12.

Limitation on amount expended from C.R.F.

19. (1) The aggregate of expenditures made pursuant to section 17 and subsection 18(1) shall not at any time exceed by more than one hundred million dollars the aggregate of amounts

(a) received by the Receiver General from the disposition by the Minister of materials, substances or defence supplies referred to in paragraph 17(a);

(b) charged to another appropriation in respect of costs referred to in paragraph 17(a), where the materials, substances or defence supplies may be acquired under that appropriation;

(c) charged to an appropriation or paid by an agent of Her Majesty or by an associated government to pay costs incurred in respect of defence supplies payment for which was made out of the Fund under paragraph 17(b); and

(d) received in repayment of a loan or advance referred to in subsection 18(1).

No credit of loss against expenditure without appropriation

(2) No loss sustained in respect of the acquisition and subsequent disposition of any defence supplies or on account of any loan or advance or otherwise may be credited against any expenditure made pursuant to section 17 or subsection 18(1), except pursuant to an appropriation by Parliament for that purpose.

R.S., 1985, c. D-1, s. 19; 2004, c. 25, s. 126.

Title to government issue or building

20. If, by the terms of a defence contract, it is provided that title to any government issue or building furnished or made available to a person or obtained or constructed by the person with money provided by Her Majesty or an agent of Her Majesty or an associated government remains vested or vests in Her Majesty or in an associated government free and clear of all claims, liens, prior claims or rights of retention within the meaning of the *Civil Code of Québec* or any other statute of the Province of Quebec, charges or encumbrances, then, despite any law in force in any province,

(a) the title to the government issue or building remains vested or vests in accordance with the terms of the contract free and clear of all claims, liens, prior

claims or rights of retention within the meaning of the *Civil Code of Québec* or any other statute of the Province of Quebec, charges or encumbrances; and
(b) subject to any provisions in the contract, Her Majesty or the associated government in whom the title is vested is entitled at any time to remove, sell or dispose of the government issue or building.

R.S., 1985, c. D-1, s. 20; 2001, c. 4, s. 72; 2004, c. 25, s. 127(F).

Premature rescission, resolution or termination of contract

21. No person is entitled to damages, compensation or other allowance for loss of profit, direct or indirect, arising out of the rescission, resolution or termination of a defence contract at any time before it is fully performed if it is rescinded, resolved or terminated under a power contained in the contract or under a power conferred by or under an Act of Parliament.

R.S., 1985, c. D-1, s. 21; 2004, c. 25, s. 128.

Relief from claims and proceedings for royalties

22. (1) The Minister may, on behalf of Her Majesty, contract with any person that Her Majesty will relieve that person from any claims, actions or proceedings for the payment of royalties for the use or infringement of any patent, registered industrial design or registered topography by that person in, or for the furnishing of any engineering or technical assistance or services to that person for, the performance of a defence contract.

Relief from royalty payments

(2) A person with whom the Minister has contracted under subsection (1) is not liable to pay royalties under any contract, statute or otherwise by reason of the use or infringement of a patent, registered industrial design or registered topography in, or in respect of engineering or technical assistance or services furnished for, the performance of a defence contract and to which the contract under subsection (1) applies.

Compensation for use

(3) A person who, but for subsection (2), would be entitled to a royalty from another person for the infringement or use of a patent, registered industrial design or registered topography or in respect of engineering or technical assistance or services is entitled to reasonable compensation from Her Majesty for the infringement, use or services and, if the Minister and that person cannot agree as to the amount of the compensation, it shall be fixed by the Commissioner of Patents.

Appeal

(4) Any decision of the Commissioner of Patents under subsection (3) is subject to appeal to the Federal Court under the *Patent Act*.

Definition of "registered topography"

(5) In this section, "registered topography" has the same meaning as in the *Integrated Circuit Topography Act*.

R.S., 1985, c. D-1, s. 22; 1994, c. 47, s. 220.

Accounts records and documents of contractor

23. A person who has entered into a defence contract shall

- (a) keep detailed accounts and records of the cost of carrying out the contract and retain those accounts and records until the expiration of six years after the end of the calendar year in which the contract is terminated or completed; and
- (b) on demand, produce to any person thereunto authorized by the Minister every account, record or document of any description with respect to the contract and with respect to his other business that may be required by the person so authorized and permit him to examine, audit and take copies of and extracts from the accounts, records or documents.

R.S., c. D-2, s. 19; 1980-81-82-83, c. 102, s. 2.

Re-assessment of costs and profits

24. (1) Where the Minister is satisfied, either before or after the performance, in whole or in part, of a defence contract, that the total amount paid or payable thereunder to any person is in excess of the fair and reasonable cost of performing the contract together with a fair and reasonable profit, the Minister may

- (a) by order, reduce the amount that the person is entitled to retain or receive thereunder to such amount as the Minister may fix as the fair and reasonable cost of performing the contract together with a fair and reasonable profit thereon; and
- (b) direct the person to pay to the Receiver General forthwith any amount that the person has received under the contract in excess of the amount so fixed.

Where person a party to two or more contracts

(2) Where a person is a party to two or more defence contracts, the Minister may,

- (a) by one order, reduce the total amount that the person is entitled to retain or receive under any two or more or all of the contracts to such amount as the Minister may fix as the fair and reasonable cost of performing the contracts together with a fair and reasonable profit thereon, or
- (b) by order, fix the amount that the person is entitled to retain or receive in respect of defence contracts, during such period as may be designated by the Minister, as the fair and reasonable cost of performing the contracts together with a fair and reasonable profit thereon during that period,

and the Minister may direct the person to pay to the Receiver General forthwith any amount that the person has received under the contracts or in respect of defence contracts during that period in excess of the amount so fixed in respect thereof.

Contractor carrying on other business

(3) In determining a person's fair and reasonable cost of performing defence contracts, or the fair and reasonable profit thereon, during any period, the Minister may, if during that period the person has carried on business other than the performance of defence contracts, determine for the purposes of this section such share or part of the gross income of, or the cost incurred by, the person during that period as is to be regarded as being attributable to that other business.

Minister not limited or bound by contractor's accounts or records

(4) Where the Minister is satisfied that the accounts or records kept by a person with respect to the performance of a defence contract, or of defence contracts during

any period referred to in paragraph (2)(b) or subsection (3), are insufficient to enable the cost of performance of the contract or contracts to be determined or that the cost as shown by the accounts or records is not fair and reasonable, the Minister is not limited or bound by the accounts or records in fixing the fair and reasonable cost of performance of the contract or contracts.

Recovery of repayments directed by Minister

(5) An amount payable to the Receiver General pursuant to a direction of the Minister under this section is recoverable in the Federal Court or any other court of competent jurisdiction, with full costs of suit, as a debt due to Her Majesty.

R.S., c. D-2, s. 19; R.S., c. 10(2nd Supp.), s. 64.

Appeal to Federal Court

25. (1) A person affected by an order or direction made by the Minister under section 24 may, within the period of thirty days after the receipt of a copy of the order or direction, inform the Minister of the intention of that person to appeal against the order or direction to the Federal Court and shall, within that period, file a notice of the intention in the Court and, on the giving and filing of the notice, all proceedings under the order or direction shall be stayed pending disposition of the appeal by the Federal Court.

Appellant may be ordered to give security

(2) Where a person has appealed under this section against an order or direction, a judge of the Federal Court may, on application made on behalf of the Minister, order the person to give security to the satisfaction of the Court for payment of the amount payable under the order or direction, or of such part of that amount, as the judge deems advisable in the circumstances, if it appears to the judge that the person has assets to pay the amount required to be paid by the person under the order or direction in whole or in part but that the assets may be disposed of or converted, before the appeal is decided, in such way that assets may not be available to pay any amount that may be owing as a result of the appeal.

Proceedings on appeal

(3) Where a notice of appeal has been filed in accordance with subsection (1), the Federal Court shall, on the application of the Minister or the appellant, give directions relative to the disposition of the appeal and, on the hearing of the appeal, shall have jurisdiction to review any order or direction of the Minister and may confirm the Minister's order or direction or vary the same as it deems just and the decision of the Court is final and conclusive.

R.S., 1985, c. D-1, s. 25; 2004, c. 25, s. 129(F).

26. to 29. [Repealed, 2000, c. 31, s. 2]

GENERAL

Non-disclosure of information

30. No information with respect to an individual business that has been obtained under or by virtue of this Act shall be disclosed without the consent of the person carrying on that business, except

(a) to a government department, or any person authorized by a government department, requiring the information for the purpose of the discharge of the functions of that department; or
(b) for the purposes of any prosecution for an offence under this Act or, with the consent of the Minister, for the purposes of any civil suit or other proceeding at law.
R.S., c. D-2, s. 23.

Powers of specific government companies

31. The Canadian Commercial Corporation or a company to which the *Government Corporations Operation Act* applies has capacity and power to make arrangements to act on behalf of the Minister under this Act or to enter into contracts to act as agent of Her Majesty under this Act and the making of those arrangements or the entry into those contracts and the carrying out thereof shall be deemed to be included in the objects and purposes for which the Corporation or the company was incorporated.
R.S., c. D-2, s. 24.

Paramount powers under this Act

32. The powers conferred by this Act may be exercised notwithstanding anything contained in the *Public Works Act*.
R.S., c. D-2, s. 25.

Orders and regulations

33. The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Part.
R.S., 1985, c. D-1, s. 33; 2000, c. 31, s. 3.

Regulations to be published

34. (1) Every regulation, as defined in the *Statutory Instruments Act*, made under the authority of this Part shall be published in the *Canada Gazette* within 30 days after it is made.

Motion to revoke or amend

(2) Where a regulation has been published in the *Canada Gazette* pursuant to subsection (1), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within seven days of the day the regulation was published or, if that House is not then sitting, on any of the first seven days next thereafter that that House is sitting, praying that the regulation be revoked or amended, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made.

R.S., 1985, c. D-1, s. 34; 2000, c. 31, s. 4.

PART 2

REGULATION OF ACCESS TO CONTROLLED GOODS

INTERPRETATION

Definition of "controlled goods"

35. In this Part, "controlled goods" means the goods referred to in the schedule.
2000, c. 31, s. 5.

APPLICATION

Excluded persons

36. This Part does not apply to a person who
(a) occupies a position in the federal public administration, including a position in a federal Crown corporation, or is employed by Her Majesty in right of a province, who acts in good faith in the course of their duties and employment; or
(b) is a member of a class of persons prescribed by regulation.
2000, c. 31, s. 5; 2003, c. 22, s. 159(E).

OFFENCES

Prohibitions

37. (1) No person shall, unless the person is registered under section 38 or exempt from registration under section 39 or 39.1, knowingly examine or possess a controlled good or transfer a controlled good to another person.

Offence re person registered or exempt

(2) No person registered or exempt from registration shall knowingly transfer a controlled good to or permit the examination of a controlled good by a person who is not registered or exempt from registration.

Definition of "transfer"

(3) In this section, "transfer" means, in respect of a controlled good, to dispose of it or disclose its content in any manner.

Scope of registration

(4) The registration of a person extends to the officers, directors and employees authorized by the registered person in accordance with the regulations.
2000, c. 31, s. 5.

REGISTRATION

By Minister

38. (1) The Minister may, in accordance with the regulations, register any person who makes an application for registration and may, for that purpose, request any information that in the opinion of the Minister is necessary.

Conditions

(2) A registration or its renewal is subject to conditions prescribed by regulation and any conditions that in the opinion of the Minister are appropriate.

Denial — security assessment

(3) The Minister may deny an application for registration or suspend, amend or revoke a registration on the basis of a security assessment prescribed by regulation.

Certificate of registration

(4) The Minister shall furnish a registered person with a certificate of that registration in a form that the Minister may specify.

2000, c. 31, s. 5.

EXEMPTION

By regulation

39. Individuals of a class prescribed by regulation are exempt from registration.

2000, c. 31, s. 5.

By Minister

39.1 (1) The Minister may, in accordance with the regulations, exempt an individual from registration and may, for that purpose, request any information that in the opinion of the Minister is necessary.

Conditions

(2) An exemption or its renewal is subject to conditions prescribed by regulation and any conditions that in the opinion of the Minister are appropriate.

Denial — security assessment

(3) The Minister may deny, suspend, amend or revoke an exemption on the basis of a security assessment prescribed by regulation.

Certificate of exemption

(4) If an exemption is granted, the Minister shall furnish, in accordance with the regulations, a certificate of exemption in a form that the Minister may specify.

2000, c. 31, s. 5.

REPORT

To Minister

40. Every registered person shall provide the Minister with any information prescribed by regulation, in the manner and time prescribed by regulation.

INSPECTION

Designation of inspectors

41. (1) The Minister may designate persons or classes of persons whom the Minister considers qualified to act as inspectors for the purposes of this Part.

Certificate of designation

(2) The Minister shall furnish every inspector with a certificate of designation as an inspector and, on entering any place or inspecting any thing, an inspector shall show the certificate to the person apparently in charge of the place or thing if the person requests proof of the inspector's designation.

2000, c. 31, s. 5.

Inspection of facilities

42. (1) For the purpose of ensuring compliance with this Part and the regulations, an inspector may at any reasonable time enter and inspect any place.

Powers of inspector

(2) When conducting the inspection, the inspector may

- (a) require the attendance of and question any person who the inspector considers will be able to assist in the inspection;
- (b) require any person to produce for inspection or copying any document that the inspector believes contains any information relevant to the administration of this Part or the regulations;
- (c) detain or remove any controlled good, until the inspector is satisfied that the requirements of this Part and the regulations are met; and
- (d) require that any individual in charge of a place that is the subject of an inspection take any measures that the inspector considers appropriate.

Inspector may be accompanied

(3) While exercising any authority under this Part, an inspector may be accompanied by any other person chosen by the inspector.

2000, c. 31, s. 5.

REGULATIONS

Governor in Council

43. The Governor in Council may make regulations for carrying out the purposes and provisions of this Part, including regulations

- (a) respecting the classes of persons referred to in paragraph 36(b);
- (b) respecting the procedure, under subsection 37(4), for authorizing officers, directors and employees to examine, possess or transfer controlled goods and the conditions they must satisfy to be authorized;
- (c) respecting registrations under section 38 and exemptions from registration under sections 39 and 39.1, including

- (i) the conditions of eligibility,
 - (ii) the procedure to be followed in making applications and the information to be set out in the applications,
 - (iii) the factors to be considered by the Minister when deciding whether a person may be registered or exempted,
 - (iv) the Minister's powers to renew, suspend, amend or revoke a registration or an exemption,
 - (v) the conditions of registration or the renewal of a registration, including the keeping of records, the requirement to report under section 40, and the establishment and implementation of security plans,
 - (vi) the conditions of exemption or the renewal of an exemption, and
 - (vii) security assessments made under subsection 38(3) or 39(3); and
- (d) amending, on the joint recommendation of the Minister and the Minister of Foreign Affairs, the schedule.

2000, c. 31, s. 5.

PART 3

OFFENCE AND PUNISHMENT

Other prohibitions

44. No person shall

- (a) make any false or misleading statement or provide false or misleading information to an inspector or other person carrying out functions under this Act;
- (b) destroy any record or document required to be kept under this Act or the regulations;
- (c) make a false entry in a record required to be kept under this Act or the regulations or omit to make any entry in such a record;
- (d) interfere in any way with any thing detained or removed by an inspector, except with the inspector's permission; or
- (e) fail to comply with any reasonable request of an inspector or otherwise obstruct an inspector in the performance of the inspector's functions.

2000, c. 31, s. 5.

Serious offence

45. (1) Every person who contravenes section 37 is guilty of

- (a) an offence punishable on summary conviction and liable to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding two years, or to both; or
- (b) an indictable offence and liable to a fine not exceeding \$2,000,000 or to imprisonment for a term not exceeding 10 years, or to both.

Other offences

- (2) Every person who contravenes any other provision of this Act or the regulations is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months, or to both.

Defence of due diligence

(3) For the purposes of subsection (2), no person shall be found to have contravened section 13 or 44 or the regulations if the person exercised all due diligence to prevent the contravention.

Continuing offence

(4) If an offence is committed or continued on more than one day, the person who commits it is liable to be convicted of a separate offence for each day on which the offence is committed or continued.

Factors to be considered when imposing sentence

(5) If an offender is convicted under subsection (1), the court imposing a sentence on the offender shall, in addition to considering any other relevant factors, consider the nature of the controlled goods that are the subject-matter of the offence.

Limitation period for summary conviction offences

(6) Proceedings by way of summary conviction may be instituted at any time within, but not later than, three years after the day on which the subject-matter of the proceedings arose.

2000, c. 31, s. 5.

Officers, etc., of corporation

46. An officer or a director, or an agent or a mandatary, of a corporation that commits an offence under this Act is liable to be convicted of the offence if he or she directed, authorized, assented to, acquiesced in or participated in the commission of the offence, whether or not the corporation has been prosecuted or convicted.

2000, c. 31, s. 5; 2004, c. 25, s. 130(E).

SCHEDULE

(Section 35)

CONTROLLED GOODS LIST

1. The following goods listed in the schedule to the *Export Control List* made under section 3 of the *Export and Import Permits Act* are controlled goods:

(a) Group 2: goods listed in item 2001 that are prohibited firearms, as defined in paragraph (c) of the definition "prohibited firearm" in subsection 84(1) of the *Criminal Code*;

(b) Group 2: goods listed in item 2003 that are ammunition with a calibre greater than 12.7 mm;

(c) Group 2: goods listed in items 2002 and 2004 to 2022;

(d) Group 5: goods listed in item 5504; and

(e) Group 6: all goods listed.

2000, c. 31, s. 7.

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