



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PLANT HEALTH ACT

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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PLANT HEALTH ACT

CHAPTER P-9.1

1. Definitions

In this Act

- (a) “**agent**” means any person or government agency appointed by the Lieutenant Governor in Council to administer, subject to the supervision and direction of the Minister, all or any part of this Act;
- (b) “**causal pathogen**” means any virus, fungus, bacteria or other organism that may be responsible for, or could be responsible for, the occurrence of any regulated disease;
- (c) “**crop**” means any plant species, or harvested part thereof, designated by the regulations;
- (d) “**crop seed**” means any seed, tissue or vegetative part of any crop which is used for propagation or regeneration of that crop;
- (e) “**dealer**” means a person who, on his own account, buys and sells crops, and includes any person involved in the transportation of crops;
- (f) “**disease**” means any condition that adversely affects the health or quality of a crop;
- (g) “**disease free zone**” means any area in which there has been no known occurrence, within a crop, of a regulated disease or any evidence of the presence of its causal pathogen for a period specified in the regulations;
- (h) “**disinfection**” means the application, by inspectors, officers or other persons authorized by the Minister, of chemical materials on areas or objects for the purpose of killing any causal pathogen that is or may be present, being materials registered for such purposes under the *Pesticide Control Act* (Canada);
- (i) “**farm unit**” means a single tract of land, or a number of separate tracts held under the same or different tenures, operated as a single unit utilizing, in whole or in part, common facilities, equipment and storage for agricultural purposes;
- (i.1) “**genetically altered plant**” means any plant developed by genetic transformation so as to contain genes not normally found in that species;
- (j) “**grower**” means any person who operates a farm unit by planting, managing, maintaining and harvesting of crops, and includes any servant or agent of such a person;
- (j.1) repealed by *1992, c.53, s.1*;
- (k) “**inspector**” means any person appointed by the Minister as an inspector under this Act;
- (l) “**Minister**” means the Minister of Agriculture and Fisheries;
- (m) “**officer**” means any person appointed by the Minister as an officer under this Act;

- (m.1) “**private plant breeder**” means any person not employed by the Government of Canada or the Government of Prince Edward Island who breeds or attempts to breed any new cultivars of crop species;
- (n) “**quarantine**” includes
- (i) the isolation of a named material and farm unit or premises,
 - (ii) the regulated movement or disposition of the material,
 - (iii) the restriction of access to the farm unit or premises, and
 - (iv) the prohibition of planting of any crop on a farm unit;
- (o) “**regulated disease**” means any disease designated as being regulated by this Act or the regulations. *1990, c.45, s.1; 1991, c.31, s.1; 1992, c.53, s.1; 1993, c.29, s.4; 1997,c.20,s.3; 2004,c.36,s.3; 2009,c.73,s.2; 2012,c.17,s.2; 2015,c.28,s.3.*

2. Administration

The Minister shall administer and enforce this Act and the regulations and may appoint an agent who shall exercise such powers and perform such duties as are conferred or imposed upon the agent by or under this Act and the regulations. *1990, c.45, s.2.*

3. Appointment of inspectors, etc.

- (1) The Minister may appoint such inspectors and officers as are necessary for the administration of this Act and the regulations.

Eligibility

- (2) Any employee of the province, of the Government of Canada or of the agent who meets the standards prescribed by the regulations is eligible to be appointed under subsection (1).

Powers

- (3) An inspector or officer may at any reasonable time
- (a) enter any place or premises where he believes on reasonable grounds that crops are growing or are being stored;
 - (b) stop and enter any vehicle or conveyance that he believes on reasonable grounds may contain crops,

for the purpose of inspecting the place, premises, vehicle or conveyance and any crop growing, stored or contained therein and may

- (c) open any container or package found therein or examine anything found therein that he believes on reasonable grounds contains any vegetable matter;
- (d) take a sample of any vegetable matter situated in the place, premises, vehicle or conveyance for the purpose of ascertaining the existence of any regulated disease or causal pathogen; and
- (e) require any person to produce for inspection or for the purpose of obtaining copies or extracts any books, shipping bills, bills of lading, proof of disinfection, invoices or other documents or papers concerning any matter relevant to the administration of this Act or the regulations.

Assistance to inspector etc.

- (4) The owner or person in charge of any place or premises described in subsection (3) and every person found therein shall give the inspector or officer all reasonable assistance to enable the inspector or officer to carry out his duties and functions under this Act and the regulations



and shall furnish the inspector or officer with any information he may reasonably require with respect to the administration of this Act and the regulations.

Action by Minister

- (5) Where the Minister has reason to believe, based on the report of an inspector, that any crop or other matter constitutes a hazard for reason that it is or could be infected with a regulated disease or causal pathogen or was planted in contravention of this Act or the regulations, the Minister may, in writing and subject to such terms and conditions as may be specified in the order,
- (a) issue an order to confiscate the crop or other matter;
 - (b) order its destruction forthwith in accordance with the regulations;
 - (c) order the clean-up and disinfection of any farm unit or premises in accordance with the regulations.

Costs

- (6) Where an order is made under subsection (5) for the destruction of any crop or the clean-up and disinfection of any farm unit, the costs incurred may be recovered by the Minister from the owner or grower as a civil debt due to the Crown. *1990, c.45, s.3; 1991, c.31, s.2; 1992, c.53, s.2; 1995, c.30, s.2,3.*

3.1 Obstruction etc. of inspector

No person shall obstruct or hinder or knowingly make any false or misleading statements either orally or in writing to an inspector or officer engaged in carrying out his duties or functions under this Act or the regulations. *1991, c.31, s.3.*

3.2 Removal from quarantine

Except as provided by this Act, no person shall remove from quarantine anything seized and detained pursuant to this Act or the regulations. *1991, c.31, s.3.*

3.3 Transportation restrictions

The Minister, on the report of an inspector or officer setting out a reasonable belief of the existence of any regulated disease in any area defined in a report to the Minister, may by order prohibit or restrict the transportation into or from or the movement in that area of any crop or other matter that in the Minister's opinion is likely to result in the spread of that regulated disease. *1991, c.31, s.3.*

4. Expertise

The Minister may engage, upon such terms and conditions as he thinks fit, the services of such professional or technical persons and experts to advise him on such matters as he thinks necessary for the efficient administration of this Act and the regulations. *1990, c.45, s.4.*

5. Responsibility of grower for seed planted

- (1) Where evidence is produced that crop seed has been planted on the farm unit operated by a grower, the grower shall be deemed to have planted the crop seed or permitted it to be planted.

Identification

- (2) Where crops are identified by seed certification number tags, the person identified by the seed certification number tags shall be deemed to be the grower of the crops.

Quarantine

- (3) If the grower or the person responsible for the planting, management, maintenance or harvest of a crop can not be identified by an inspector, the inspector shall quarantine that crop for a period of up to two weeks.

Crop deemed to constitute hazard

- (4) If, after every reasonable attempt, the inspector has been unable, within the quarantine period, to find the grower or person responsible for the crop, the crop shall be deemed to constitute a hazard for the purposes of subsection 3(5) and the Minister may issue an order accordingly.
1990, c.45, s.5; 1992, c.53, s.3.

5.1 Prohibition, home garden

Repealed by *1992, c.53, s.4.*

6. Regulations

- (1) The Lieutenant Governor in Council may make regulations
- (a) generally for the purpose of eradicating, preventing or controlling the spread of regulated diseases in the province;
 - (a.1) providing for testing for the presence of a regulated disease, including the mandatory planting of indicator crops on suspect acreage;
 - (b) providing for the making of a quarantine order;
 - (b.1) prescribing specific fines for specific enumerated offences, including prescribing specific minimum fines;
 - (c) respecting the handling and disposition of any growing or harvested crops within a quarantine area;
 - (d) controlling the entry into the province of crop seed that may contain a regulated disease or its causal pathogen;
 - (e) respecting the production and propagation of any crop seed within the province so as to prevent the spread of any regulated disease;
 - (e.1) respecting the operation within the province of private plant breeders of crops;
 - (e.2) respecting the growing in the province of unregistered varieties or breeding lines of genetically altered plant species;
 - (f) providing the terms and conditions upon which any person may have in his possession at any time any crop that the Minister believes may transmit a regulated disease to any crop;
 - (g) requiring any person who has in his possession crops infected with a regulated disease to dispose of such crops within a stated time by such means as may be prescribed in the regulations or as may be determined by an inspector to control the disease;
 - (h) providing for the control and regulation of plant species that may serve as an alternative host for the causal pathogen of any regulated disease;
 - (i) providing for the mandatory treatment and method of treatment to be administered to any crop, premises, handling or packaging equipment or vehicle to eradicate, control



- or prevent the spread of any regulated disease or causal pathogen and requiring that the treatment be administered by the owner or by a person appointed for that purpose;
- (j) providing for the mandatory disinfection of vehicles used for the transportation of regulated crops;
 - (k) providing for the mandatory disinfection of any specified facilities or equipment involved in the planting, cultivation, spraying, harvesting or storage of regulated crops;
 - (l) defining the methods of disinfection that shall be used to prevent the spread of any regulated disease and defining the conditions under which disinfections must be carried out;
 - (m) providing criteria for the establishment of disease free zones for any crop within the province;
 - (n) controlling or prohibiting the movement of crops from or into any disease free zone;
 - (o) providing for the segregation, destruction or disposal of any crop infected with any regulated disease or causal pathogen, or that was planted in contravention of this Act or the regulations;
 - (p) prohibiting the use for seed of any crop that has been infected with or that has been in contact with a regulated disease or causal pathogen;
 - (q) prescribing the conditions of packaging of any crop during transport to minimize the risk of spread of a regulated disease;
 - (r) prescribing fees to be paid for the provision of services under this Act;
 - (s) respecting the establishment of a disease control committee for any crop with the purpose of advising the Minister respecting the control of the disease or any other matters as determined by the Minister;
 - (t) designating crops and regulated diseases to which the regulations apply;
 - (u) respecting the standards required for appointment as an inspector or officer under this Act or the regulations;
 - (v) prescribing books, records, documents and accounts to be kept by growers of, or dealers in, crops and the period for which such books, records, documents and accounts shall be kept;
 - (w) respecting the use, storage, disposal or disinfection of any bags, crates or containers that have been used, or may have been used, for the storage of crops;
 - (x) controlling the types and classes of crop seed that may be planted and defining the conditions under which the controls apply;
 - (x.1) providing for the establishment of testing programs and technologies, recognized by the Minister, for the determination of levels of any disease and its related causal pathogen in or on any crop or any crop seed;
 - (x.2) prescribing levels for any disease and its related causal pathogen in any crop or crop seed beyond which planting of crop seed affected by the disease or its related causal pathogen would be prohibited;
 - (y) controlling the planting of crop seed that has been cleaned, cut, graded or otherwise processed at a common handling or processing facility;
 - (z) establishing the terms of reference generally respecting the duties, powers and liabilities of the agent and the province. *1990, c.45, s.6; 1991, c.31, s.5; 1992, c.53, s.5; 1998, c.95, s.1; 2000, c.19, s.1.*

7. Proof of permission

In any prosecution under this Act or the regulations, it shall be deemed, unless the contrary is proved, that a grower or dealer has acted without the permission of an inspector or officer where regulations require such permission. *1990, c.45, s.7.*

8. Liability

No action lies against the Minister, any inspector or officer or other person for any act in good faith done or performed or purporting to have been done or performed under this Act or the regulations. *1990, c.45, s.8.*

9. Injunction

- (1) In addition to any other remedy provided by law, any contravention or violation of this Act or the regulations may be restrained by injunction at the instance of the Minister upon application to the Supreme Court, and the court shall grant the injunction upon being satisfied that the granting of the injunction is advisable to ensure compliance with this Act or the regulations.

Form

- (2) An injunction granted pursuant to subsection (1) may be prohibitive or mandatory in nature and, where mandatory, may require the taking of action to clean or restore the environment.

Violation

- (3) The contravention of or failure to comply with any provision of an order made pursuant to this Act or the regulations constitutes a violation of this Act for the purposes of subsection (1). *1990, c.45, s.9.*

10. Offence and penalty

- (1) Any person who contravenes or violates any provision of this Act or the regulations or who fails to comply with any term or condition or other provision of any order issued by the Minister or an inspector or officer made pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine of not less than \$200 and not more than \$25,000, except as otherwise provided in the regulations.

Continuing offence

- (2) Where a contravention or violation of any provision of the Act or the regulations continues for more than one day, the offender is guilty of a separate offence for each day that the contravention or violation continues.

Limitation period

- (3) Proceedings with respect to an offence under this Act or the regulations may be instituted at any time within one year after the time when the subject matter of the proceedings arose. *1990, c.45, s.10; 2000, c.19, s.2.*

