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Regulations Amending the Contraventions Regulations (Quarantine Act): SOR/2020-86

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Registration

SOR/2020-86 April 11, 2020

CONTRAVENTIONS ACT

P.C. 2020-248 April 10, 2020

Her Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to section 8 ^a of the *Contraventions Act* ^b, makes the annexed *Regulations Amending the Contraventions Regulations (Quarantine Act)*.

Regulations Amending the Contraventions Regulations (Quarantine Act)

Amendments

1 The *Contraventions Regulations* ¹ are amended by adding the following after section 3:

Young Persons

4 In the case of a contravention committed by a young person, the amount of a fine established in column III of an item to the Schedules is deemed to be the lesser of \$100 and the amount set out in column III of that item.

2 The Regulations are amended by adding after Schedule XV the Schedule XVI set out in the schedule to these Regulations.

3 The Regulations are amended by replacing the references after the schedule heading in Schedules I to XV with “(Sections 1 to 4)”.

Coming into Force

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

SCHEDULE

(Section 2)

SCHEDULE XVI

(Sections 1 to 4)

Quarantine Act

Item	Column I	Column II	Column III
	Provision of <i>Quarantine Act</i>	Short-Form Description	Fine (\$)
1	12	Failure to present oneself to a screening officer at the nearest entry point	275
2	15(1)	Failure to answer a relevant question asked by a screening officer or quarantine officer or to provide the officer with any required information or record	275
3	15(2)	Failure to disclose specified information concerning a listed communicable disease or vectors	275
4	15(3)	Failure to comply with a reasonable measure ordered by a screening officer or quarantine officer	500
5	25(1)	Failure to comply with an order to report to a public health authority	275
6	26	Failure to comply with an order regarding a treatment or a measure for preventing the introduction and spread of a communicable disease	750
7	58	Failure to comply with an order prohibiting or subjecting to any condition the entry into Canada	1000
8	65(1)	Enter a quarantine facility without authorization	275
9	65(2)	Leave a quarantine facility without authorization	750

10	66	(a) Hinder or wilfully obstruct a quarantine officer, screening officer or environmental health officer	500
		(b) Make a false or misleading statement to a quarantine officer, screening officer or environmental health officer	275

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issues

In response to the COVID-19 coronavirus pandemic, which began to have serious impacts in Canada in March 2020, the Government of Canada has made numerous emergency orders under the *Quarantine Act*. These orders restrict entry into Canada or subject persons entering Canada to certain conditions, notably requiring any person returning from travelling abroad to self-isolate for 14 days. The *Quarantine Act* and the emergency orders made under that Act are designed to slow and prevent the spread of COVID-19. It is therefore vitally important that those measures be strictly followed.

Currently, if enforcement authorities believe a warning or other non-legal response is insufficient for someone found contravening the *Quarantine Act*, they must prosecute that person using the procedure set out in the *Criminal Code*. The individual would be issued a summons under the *Criminal Code* and would have to appear in court.

The ticketing procedure established under the *Contraventions Act* offers another option for addressing those who contravene the *Quarantine Act*. The ticketing regime established by the *Contraventions Act*, known as the Contraventions Regime, provides another option for enforcing certain federal offences of a regulatory nature as the offender can choose to plead guilty and pay a fine without having to appear in court. Making use of this regime for these offences saves valuable time for the courts and for the enforcement agency, which can be dedicated to the prosecution of the most serious instances of these offences. In order to allow for the enforcement of certain offences contained in the *Quarantine Act* through the ticketing procedure established under the *Contraventions Act*, the offences need to be designated as contraventions and included in the *Contraventions Regulations*.

Furthermore, to enable enforcement officers to issue tickets under the *Contraventions Act* to persons twelve years of age or more, but under eighteen years of age, an amendment to the *Contraventions Regulations* is required to establish distinct fine amounts not exceeding \$100 in respect of contraventions committed by young persons.

Background

The COVID-19 coronavirus disease outbreak is now a global issue, and has been declared a pandemic by the World Health Organization. This virus has been clearly demonstrated to cause severe, life-threatening respiratory disease. Human-to-human transmission is now the predominant route of transmission of the current outbreak of this disease.

The purpose of the *Quarantine Act* is to prevent the introduction and spread of communicable diseases such as COVID-19. It is applicable to persons and conveyances arriving in or in the process of departing from Canada. It provides measures for the screening, health assessment and medical examination of travellers to determine if they have a communicable disease and control measures to prevent the introduction and spread of communicable disease.

The *Quarantine Act* authorizes the Governor in Council to make emergency orders prohibiting any class of persons who have been in a foreign country from entering Canada, or subjecting their entry into Canada to any conditions. In the context of the Government of Canada's response to COVID-19, numerous emergency orders have been made since early February 2020. Notably, on March 25, 2020, an emergency order was implemented requiring any person entering Canada by air, sea or land to self-isolate for 14 days, whether or not they have symptoms of COVID-19.

Enacted in 1992, the *Contraventions Act* provides a procedure for the prosecution of federal regulatory offences designated as contraventions. This procedure reflects the distinction between criminal offences and regulatory offences and offers an alternative to the summary conviction procedure set out in the *Criminal Code*. It allows enforcement authorities to commence the prosecution of a contravention by means of a ticket with the option of voluntary payment of the prescribed fine, therefore avoiding the longer and more costly procedure set out in the *Criminal Code*. This spares the offender from the legal ramifications of a *Criminal Code* conviction while ensuring that court and criminal justice resources can be focussed on the prosecution of more serious offences. This ticketing procedure can be a more reasonable and effective approach for minor offences, and provides for fines that are more proportionate to the seriousness of these offences. Where an enforcement officer believes a more serious response is required, the summary conviction procedure established in the *Criminal Code* remains open to them.

The *Contraventions Act* provides two mechanisms for implementing a ticketing regime for federal contraventions: first, it provides for the eventual creation of an autonomous and comprehensive federal procedural regime to process federal tickets; and second, it makes it possible for the federal government to rely instead on existing provincial ticketing schemes. Rather than duplicate existing provincial structures at the federal level, the federal government has opted to use its powers under the *Contraventions Act* to enter into agreements with the provinces and make existing provincial ticketing schemes applicable to federal contraventions. As a result, when a contravention ticket is issued by an enforcement authority, the ensuing process is mainly governed by the ticketing scheme of the province in which the offence occurred.

In practical terms, enforcement officers can start using a provincial ticketing scheme to enforce federal contraventions when both the following legal requirements are met: the incorporation by reference of the provincial legislation has been completed in accordance with the *Application of Provincial Laws Regulations*; and an agreement has been signed with the relevant provincial

government, in conformity with the *Contraventions Act*. In the absence of either one of these two conditions, federal offences designated as contraventions continue to be enforced in a provincial jurisdiction using warnings or they are prosecuted under the *Criminal Code* summary conviction procedure. To date, the Contraventions Regime has been implemented in eight provinces. It is not currently used in Alberta, Saskatchewan and the territories.

Made under section 8 of the *Contraventions Act*, the *Contraventions Regulations* identify the federal offences designated as contraventions, provide the short-form description of these offences and prescribe the amount of the fine for each of these contraventions. Subsection 8(4) of the *Contraventions Act* specifies that a fine amount established in respect of a contravention may not exceed \$100 if the contravention is committed by a person twelve years of age or more but under eighteen years of age (young person).

These amendments to the *Contraventions Regulations* directly support the Government of Canada's response to COVID-19 and are therefore made on an expedited basis to support efforts to prevent or reduce risks to the health of Canadians.

Objective

The objective of the amendments is to support efforts to prevent the spread of COVID-19. The designation as contraventions of offences under the *Quarantine Act* is intended to provide enforcement authorities with an additional enforcement tool to improve compliance with the *Quarantine Act* and the emergency orders made under that Act.

The amendments also enable enforcement authorities to issue contraventions tickets to young persons by establishing a fine amount that may not exceed \$100 for any contraventions committed by a young person, including the contraventions under the *Quarantine Act*.

Description

The amendments to the *Contraventions Regulations* do not create new offences nor do they impose new restrictions or burdens on individuals or businesses.

The amendments designate as contraventions ten offences under the *Quarantine Act*. They allow enforcement officers to issue contraventions tickets to those found in violation of certain provisions of the *Quarantine Act* and emergency orders made under section 58 of that Act.

The fine amounts for these new contraventions range between \$275 and \$1,000. The fine amount for contraventions committed by young persons is \$100. In order to set distinct fine amounts for young persons, a provision was added to the *Contraventions Regulations* establishing the fine amount for young persons in respect of any contravention to be the lesser of \$100 or the fine set out in Column III of the schedules for a particular contravention.

In order to designate these offences as contraventions, a new schedule is added to the *Contraventions Regulations* titled "Schedule XVI."

The offences designated as contraventions pertain to obligations imposed on travellers and other persons to prevent the introduction and spread of communicable disease, including the obligation on a traveller

- to present oneself to a screening officer at the nearest entry point (section 12);
- to answer relevant questions asked by a screening officer or quarantine officer or to provide any required information or record (subsection 15(1));
- to disclose to a screening officer or quarantine officer that they may have a communicable disease or have recently been in close proximity to a person that has a communicable disease (subsection 15(2));
- to comply with reasonable measures ordered by a screening officer or quarantine officer (subsection 15(3));
- to comply with an order from a quarantine officer to report to a public health authority (subsection 25(1));
- to comply with an order regarding a treatment or any other measure for preventing the spread of the communicable disease (section 26); and
- to comply with an emergency order prohibiting or subjecting to any condition the entry of the traveller into Canada (section 58).

The offences designated as contraventions also prohibit any person from

- entering or leaving a quarantine facility without the authorization of a quarantine officer (subsections 65(1) and (2)); and
- hindering or willfully obstructing a quarantine officer, a screening officer or an environmental health officer or making a false or misleading statement to the officer (section 66).

Regulatory development

Consultation

These amendments to the *Contraventions Regulations* support the Government of Canada's efforts to prevent risks to the health of Canadians, in the context of the COVID-19 pandemic. These regulatory amendments have been made on an expedited basis and therefore, no public consultations were undertaken.

The amendments to the *Contraventions Regulations* do not create new offences nor do they impose new restrictions or burdens on individuals or businesses. They designate as contraventions existing offences contained in the *Quarantine Act*, therefore allowing the prosecution of those offences through the Contraventions Regime.

Modern treaty obligations and Indigenous engagement and consultation

An initial assessment of modern treaties was undertaken. The assessment did not identify any modern treaty implications or obligations.

Instrument choice

In order to have these offences enforced through the Contraventions Regime and to allow enforcement officers to issue contraventions tickets for these offences, they must be designated as contraventions and included in the *Contraventions Regulations*. Therefore, no non-regulatory options were considered.

Regulatory analysis

Benefits and costs

The designation of offences as contraventions provides enforcement officers with an additional enforcement tool to better enforce the provisions of the *Quarantine Act*. Currently, enforcement officers attempting to enforce the *Quarantine Act* may only issue a warning or proceed under the *Criminal Code* procedure. The Contraventions Regime will allow enforcement officers to use a more graduated approach to enforcement that reflects the severity of each infraction.

While there is no data from which one can draw a comparison, there is consensus among all key players (federal institutions, enforcement authorities, the courts and the public) that prosecutions by way of ticketing results in savings to the entire justice system as it provides the offenders, law enforcement, and courts with a quick and convenient process for handling offences. Ticketing, to a large extent, is intended to reduce pressure on the courts, resulting in savings for the government in terms of prosecution costs, and enabling the courts to focus on matters that require judicial consideration. Ticketing also frees up a great amount of enforcement officers' time. Less time in the office preparing for court means more time that is dedicated to undertake monitoring, control and surveillance efforts. Furthermore, offenders will be subject to a process that can be more appropriate and proportionate to the nature of the offence. The offender can pay the fine and avoid the burden of having to appear in court or, should they choose to plead not guilty, the ticket can be contested in court.

Costs incurred by the provinces in the administration of federal contraventions are covered by the revenues generated by the payment of fines, making the Contraventions Regime cost neutral. The surplus fine revenues are shared equally between the federal and provincial governments. The agreements signed with the provinces include clauses to that effect.

Small business lens

The small business lens does not apply, as there are no cost implications for small businesses.

One-for-one rule

The one-for-one rule does not apply, as there are no changes in administrative burden.

Regulatory cooperation and alignment

These amendments are not related to a work plan or commitment under a formal regulatory cooperation forum.

Strategic environmental assessment

In accordance with the *Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*, a preliminary scan concluded that a strategic environmental assessment is not required.

Gender-based analysis plus (GBA+)

No differential impacts are expected on the basis of gender or other identity factors as these amendments do not create new requirements or burdens on individuals; they merely designate existing offences as contraventions.

It is important to note that the purpose of the *Contraventions Act* is to ensure that the enforcement of offences designated as contraventions will be less onerous on the offender and more proportionate and appropriate to the seriousness of the offence when compared to the procedure set out in the *Criminal Code*.

It is also important to note that COVID-19 has been demonstrated to more severely affect a vulnerable subpopulation of persons, specifically older adults with co-morbidities as well as those who are immunocompromised. The Government of Canada is supporting efforts to address this serious risk to these vulnerable populations by enabling a ticketing regime to enforce requirements under the *Quarantine Act*.

Implementation, compliance and enforcement, and service standards

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

The amendments to the *Contraventions Regulations* give enforcement officers an appropriate enforcement measure, allowing them to fulfil their mandate effectively and promote compliance with the *Quarantine Act*.

Contact

Julien Léger
Counsel
Programs Branch Legal Services Division
Policy Sector
Department of Justice
284 Wellington Street

Ottawa, Ontario

K1A 0H8

Telephone: 613-941-7339

Footnotes

a S.C. 1996, c. 7, s. 4

b S.C. 1992, c. 47

1 SOR/96-313
