

Canadian Free Trade Agreement Implementation Act

CHAPTER 23 OF THE ACTS OF 2018



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**An Act to Implement
the Canadian Free Trade Agreement**

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Short title

1 This Act may be cited as the *Canadian Free Trade Agreement Implementation Act*. 2018, c. 23, s. 1.

OCTOBER 11, 2018

Purpose of Act

2 The purpose of this Act is to implement the Canadian Free Trade Agreement between the Government of Canada and the governments of all the provinces of Canada and thereby reduce and eliminate barriers to the free movement of persons, goods, services and investments within Canada and to establish an open, efficient and stable domestic market. 2018, c. 23, s. 2.

Interpretation

3 (1) In this Act,

(a) “Agreement” means the Canadian Free Trade Agreement between the Government of Canada and the governments of all the provinces of Canada effective on July 1, 2017, as amended from time to time;

(b) “Canadian jurisdiction” means a jurisdiction the government of which is a party to the Agreement;

(c) “certification”, in relation to a worker, means a certificate, licence, registration or other form of official recognition issued to the worker by the regulatory authority of a Canadian jurisdiction that attests that the worker is qualified and authorized to

(i) practise a particular occupation in the Canadian jurisdiction, or

(ii) use in the Canadian jurisdiction a particular occupational title, designation or abbreviated title or designation;

(d) “Court” means the Supreme Court of Nova Scotia;

(e) “Minister” means the Minister of Trade;

(f) “regulatory authority” means a person or body designated by the regulations;

(g) “worker” means an individual, whether employed, self-employed or unemployed, who performs or seeks to perform work for pay or profit.

(2) Subject to subsection (1) and the regulations, words and expressions in this Act have the same meaning as in the Agreement. 2018, c. 23, s. 3.

Act and regulations prevail

4 Where there is a conflict between this Act or the regulations and any other enactment, this Act and the regulations prevail. 2018, c. 23, s. 4.

Application of Act to Crown

5 This Act binds Her Majesty in right of the Province. 2018, c. 23, s. 5.

No action lies

6 **(1)** Subject to subsection (2), no cause of action and no legal proceeding lies or may be brought or continued against the Government or another person to enforce or determine a right or obligation that is claimed or arises solely under or by virtue of the Agreement.

(2) Subsection (1) does not apply to a proceeding that is provided for under Chapter Ten of the Agreement. 2018, c. 23, s. 6.

IMPLEMENTATION OF AGREEMENT

Minister responsible for Act and Agreement

7 The Minister is responsible for this Act and the Agreement, including the implementation of the Agreement. 2018, c. 23, s. 7.

Representative on Committee on Internal Trade

8 The Minister, or such other member of the Executive Council as the Governor in Council determines, is the representative of the Province on the Committee on Internal Trade established pursuant to the Agreement. 2018, c. 23, s. 8.

Appointments to dispute panel rosters and committees

9 **(1)** The Governor in Council may appoint any person to the dispute resolution panel rosters established under Chapter Ten of the Agreement.

(2) The Minister may appoint a person to be a representative of the Province on any committee, board or other body established for the purpose of the Agreement. 2018, c. 23, s. 9.

Effect of order

10 **(1)** A certified copy of an order made by a presiding body that requires the Province to pay tariff costs, additional costs or a monetary penalty may be filed with the Court in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed, has the same force and effect regarding payment as a proceeding against the Crown and as a certificate issued pursuant to Section 20 of the *Proceedings Against the Crown Act*.

(2) A certified copy of an order made by a presiding body under the Agreement that requires a person other than Her Majesty in right of the Province to pay tariff costs, additional costs or a monetary penalty may be filed with the Court in accordance with the *Nova Scotia Civil Procedure Rules* and, once filed, is enforceable in the same manner as a judgment of the Court. 2018, c. 23, s. 10.

LABOUR MOBILITY

Duty to comply with Agreement

11 A regulatory authority shall ensure that any measure it adopts or maintains respecting the certification of workers in an occupation complies with the obligations of Chapter Seven of the Agreement. 2018, c. 23, s. 11.

Inconsistent measure prohibited

12 (1) A regulatory authority may not adopt or maintain, with respect to an application for certification in relation to an occupation, a measure that is inconsistent with Chapter Seven of the Agreement, unless that measure is approved by the Minister of Labour and Advanced Education in consultation with such other members of the Executive Council as the Minister of Labour and Advanced Education considers relevant.

(2) A regulatory authority may not adopt, maintain or change an occupational standard except in accordance with Article 706 of Chapter Seven of the Agreement. 2018, c. 23, s. 12.

Power to waive or adapt requirements

13 (1) A regulatory authority may, with the prior consent of the Minister of Labour and Advanced Education, waive or adapt any requirements for certification that have been established for an occupation, notwithstanding any other enactment in order to comply with Section 11 or 12 or an order made pursuant to Section 15.

(2) The Minister of Labour and Advanced Education may include such terms and conditions in a consent under subsection (1) as the Minister of Labour and Advanced Education considers necessary or advisable. 2018, c. 23, s. 13.

Red Seal qualification recognized

14 Notwithstanding any enactment, a person from another province of Canada who holds an Inter-provincial Standards (Red Seal) Program qualification is and must be recognized as qualified, certified or licensed to work in the Province in the trade or occupation to which the qualification relates by the officer, body or authority that regulates the trade or occupation in the Province. 2018, c. 23, s. 14.

Orders respecting labour mobility

15 (1) Subject to this Section, the Minister of Labour and Advanced Education may issue orders for the purpose of ensuring compliance with Sections 11 to 14.

(2) Sections 17 to 22 apply to orders issued under this Section, *mutatis mutandis*.

(3) Before issuing an order, the Minister of Labour and Advanced Education shall give written notice to the regulatory authority affected by it and allow the regulatory authority at least 30 days, or such other period as may be prescribed by the regulations, to make a written submission explaining the reason for the alleged non-compliance.

(4) An order must

(a) describe the way in which the regulatory authority has failed to comply;

(b) set out any action the regulatory authority must take to remedy the failure; and

(c) specify the period of time within which the order must be complied with. 2018, c. 23, s. 15.

Power to alter orders by regulation

16 Where an order issued pursuant to Section 15 requires a regulatory authority to make, amend or repeal a measure that is within the authority of the regulatory authority to make, amend or repeal and the regulatory authority fails to do so within the period specified in the order, the Governor in Council may make, amend or repeal the measure by regulation. 2018, c. 23, s. 16.

ORDERS

Orders to comply

17 (1) The Minister may issue an order requiring a person, at the person's own expense, to

(a) comply with, take or refrain from taking any measure or action required to comply with this Act or the regulations;

(b) cease any measure or action inconsistent with this Act or the regulations;

(c) pay an administrative penalty in accordance with the regulations to promote compliance with this Act, the regulations and any other orders made under this Act; and

(d) maintain records or submit such reports or other information on any matter relevant to this Act, the regulations or the Agreement in such form as may be prescribed by the regulations.

(2) The Minister may issue an order pursuant to subsection (1) regardless of whether a person has contravened this Act or the regulations or has been charged or convicted in respect of a contravention of this Act or the regulations. 2018, c. 23, s. 17.

Service of order

18 An order issued under Section 17 must be served in accordance with the *Nova Scotia Civil Procedure Rules* respecting personal service, except as otherwise provided by the regulations. 2018, c. 23, s. 18.

Duty to comply with order

19 (1) When an order is served on the person to whom it is directed, that person shall comply with the order forthwith, or, where a period for compliance is specified in the order, within the period specified.

(2) Where the person to whom an order is directed does not comply with the order, the Minister may take whatever action the Minister considers necessary to enforce the terms of the order. 2018, c. 23, s. 19.

Amendment of order

20 (1) The Minister may add, vary or revoke an order or part thereof.

(2) A change to an order under this Section must be served in accordance with Section 18. 2018, c. 23, s. 20.

Recovery of costs

21 (1) Any reasonable costs, expenses or charges incurred by the Minister when investigating or responding to a matter to which an order issued under Section 17 relates or a failure to comply with such an order are recoverable by order of the Minister against the person to whom the order under Section 17 was directed.

(2) An order issued under subsection (1) may be filed with the Court in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of the Court.

(3) An amendment or revocation of an order filed with the Court under subsection (2) may be filed with the Court and, upon being filed,

(a) in the case of an amendment, the order as amended is enforceable in the same manner as a judgment of the Court; or

(b) in the case of a revocation, the order ceases to be enforceable. 2018, c. 23, s. 21.

Order not a regulation

22 An order issued under this Act is not a regulation within the meaning of the *Regulations Act*. 2018, c. 23, s. 22.

REGULATIONS

Regulations

23 (1) The Governor in Council, on the recommendation of the Minister, may make regulations

(a) governing the form of reports and other documents to be provided to the Minister;

(b) respecting the service of orders;

(c) respecting duties and obligations of persons arising from or in relation to the Agreement;

(d) respecting the establishment and administration of a system of administrative penalties, including

- (i) prescribing who may impose administrative penalties,
 - (ii) prescribing when an administrative penalty may be imposed or must be paid,
 - (iii) respecting the payment of administrative penalties,
 - (iv) respecting the status of an administrative penalty as a debt owed to Her Majesty in right of the Province,
 - (v) prescribing the content of a notice of administrative penalty,
 - (vi) prescribing the amount of administrative penalties,
 - (vii) prescribing how an administrative penalty may be filed, amended or revoked,
 - (viii) respecting the extension of the time frame for filing a notice of appeal of an order or decision made under this Act or the regulations in relation to an administrative penalty,
 - (ix) respecting the appeal of an administrative penalty, and
 - (x) respecting the use to be made of any funds collected through the imposition of administrative penalties, including where such funds are to be deposited or held;
- (e) defining or further defining any word or expression used in this Act or the Agreement;
- (f) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The Governor in Council, on the recommendation of the Minister of Labour and Advanced Education, may make regulations

- (a) prescribing a person or body as a regulatory authority;
- (b) prescribing fees in relation to anything done or required to be done under this Act or the regulations and the manner of payment of such fees;
- (c) requiring a regulatory authority to provide information, including information prior to a change to occupational standards;
- (d) requiring a regulatory authority to publish information related to certification and occupational standards and respecting the manner of publication and content of such information;

(e) governing the form of reports and other documents to be provided to the Minister of Labour and Advanced Education;

(f) making, amending or repealing a measure of a regulatory authority under Section 16.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) or (2) is a regulation within the meaning of the *Regulations Act*. 2018, c. 23, s. 23.

CONSEQUENTIAL AMENDMENTS AND REPEAL

Fair Registration Practices Act amended

24 *amendment*

Veterinary Medical Act amended

25 and 26 *amendments*

Internal Trade Agreement Implementation Act repealed

27 Chapter 8 of the Acts of 1995-96, the *Internal Trade Agreement Implementation Act*, is repealed. 2018, c. 23, s. 27.
