



LEGISLATIVE SUMMARY



Bill C-13:

**An Act to amend the Food and Drugs Act,
the Hazardous Products Act,
the Radiation Emitting Devices Act,
the Canadian Environmental Protection Act, 1999,
the Pest Control Products Act and
the Canada Consumer Product Safety Act and
to make related amendments to another Act**

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Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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Legislative Summary of Bill C-13
(Legislative Summary)

Publication No. 42-1-C13-E

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LEGISLATIVE SUMMARY OF BILL C-13:
AN ACT TO AMEND THE FOOD AND DRUGS ACT,
THE HAZARDOUS PRODUCTS ACT,
THE RADIATION EMITTING DEVICES ACT,
THE CANADIAN ENVIRONMENTAL
PROTECTION ACT, 1999,
THE PEST CONTROL PRODUCTS ACT AND
THE CANADA CONSUMER PRODUCT SAFETY ACT AND
TO MAKE RELATED AMENDMENTS TO ANOTHER ACT

1 BACKGROUND

Bill C-13, An Act to amend the Food and Drugs Act, the Hazardous Products Act, the Radiation Emitting Devices Act, the Canadian Environmental Protection Act, 1999, the Pest Control Products Act and the Canada Consumer Product Safety Act and to make related amendments to another Act,¹ was introduced in the House of Commons on 13 April 2016 on behalf of the Minister of International Trade.

The bill enables Canada to implement the Agreement on Trade Facilitation adopted by Canada and other members of the World Trade Organization (WTO) in November 2014 by making amendments primarily to the administration and enforcement provisions of six Acts that regulate food, drugs, cosmetics, hazardous or dangerous consumer products, radiation emitting devices and pesticides.

1.1 THE WORLD TRADE ORGANIZATION TRADE FACILITATION AGREEMENT

After several attempts in the 1990s to initiate formal discussions on facilitating trade through the WTO, in July 2004 the WTO General Council agreed to include this issue in the Doha Round of negotiations.² In December 2013 the conclusion of negotiations on a trade facilitation agreement was announced at the WTO Ministerial Conference in Bali. However, adoption of the text of the agreement was delayed when India indicated that it would refuse to endorse such an agreement unless a permanent solution to the issue of food security could be found.³

In November 2014, the Indian and U.S. governments announced that they had reached an understanding, particularly on public stockholding for food security, thus paving the way for the adoption of the WTO Trade Facilitation Agreement.⁴ On 27 November 2014, over 10 years after negotiations began, WTO members announced that they had agreed to a text for the Trade Facilitation Agreement. The agreement will come into force when two thirds of the WTO members have finalized their internal ratification processes. Once in force, the agreement will become part of the WTO's legal framework.⁵

1.2 TRADE FACILITATION

The term “trade facilitation” has been used in the context of a wide range of technical barriers to trade. The WTO defines it as “the simplification and harmonisation of international trade procedures” covering the “activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade.”⁶

The Trade Facilitation Agreement focuses on reforming the “hardware” of trade (procedures and processes), as distinct from the “software” side of trade (overarching trade policies).⁷

1.3 RATIFYING TRADE TREATIES IN CANADA

Under Canada’s constitutional system, the conduct of foreign affairs is a royal prerogative power of the federal Crown. Consequently, the Executive Branch has the exclusive power to negotiate and conclude international treaties. Parliament has the exclusive power to enact federal legislation to implement those treaties.

After the Executive Branch decides that a treaty should be ratified, Parliament may still need to pass implementing legislation to incorporate the international obligations imposed by the treaty into domestic law. Canada’s ratification of a new international trade treaty commonly requires amendments to existing federal legislation. This is the case with the Trade Facilitation Agreement.⁸

2 DESCRIPTION AND ANALYSIS

Bill C-13 amends primarily the administration and enforcement provisions of the following six Acts, all of which regulate different types of products or devices for the purposes of protecting human health and safety or the environment:

- the *Food and Drugs Act*,⁹ which regulates food, drugs, cosmetics and certain medical or veterinary devices;
- the *Hazardous Products Act*,¹⁰ which regulates hazardous products intended for use, handling or storage in a work place;
- the *Radiation Emitting Devices Act*,¹¹ which regulates certain radiation emitting devices, such as television receivers, dental X-ray equipment, and microwave ovens;
- the *Canadian Environmental Protection Act, 1999*,¹² which regulates, among other things, the nutrient concentration in cleaning products and water conditioners (that is, substances that promote the growth of aquatic vegetation when released into water);
- the *Pest Control Products Act*,¹³ which regulates products used for the control of pests; and
- the *Canada Consumer Product Safety Act*,¹⁴ which regulates consumer products that pose, or might reasonably be expected to pose, a danger to human health or safety.

2.1 AMENDMENTS TO ADMINISTRATION AND ENFORCEMENT PROVISIONS OF TWO OR MORE ACTS

2.1.1 ANALYSTS AND INSPECTORS

Bill C-13 amends the *Food and Drugs Act*, the *Radiation Emitting Devices Act* and the *Pest Control Products Act* to make them consistent with the *Canada Consumer Product Safety Act* and the *Hazardous Products Act*, defining both “analyst” and “inspector” as an “individual” as opposed to a “person.” This amendment makes it clear that neither the role of an inspector nor of an analyst may be held by an organization. (Clause 1 of the bill amends section 2 of the *Food and Drugs Act*; clause 17 amends section 2 of the *Radiation Emitting Devices Act*; and clause 33 amends section 2(1) of the *Pest Control Products Act*.)

The bill also defines “person” to mean an individual or an organization (public body, body corporate, society, company, partnership, municipality, etc.). The bill makes consequential amendments to two of the Acts to substitute the word “individual” or “individuals” for “person,” “people” or “human” in sections that apply only to individuals, and to add the word “person” when a provision applies to both individuals and organizations. (Clauses 18, 19, 28(1) and 28(3) of the bill amend sections 4(b), 6(1)(b), 13(1)(b) and 13(1)(d), respectively, of the *Radiation Emitting Devices Act*; clauses 32, 34, 38, 40, 42 and 44 amend the preamble and sections 4(1), 35(3), 44(1)(c), 45(2) and 47(3), respectively, of the *Pest Control Products Act*.)

The bill amends provisions of five Acts to enable the relevant minister to make the following designations for the purposes of administration and enforcement:

- individuals or classes of individuals as inspectors to exercise the powers or perform the duties or functions in relation to any matter referred to in the designation; and
- any individual as an analyst.

The amendments to the *Hazardous Products Act* and the *Pest Control Products Act* also provide for classes of individuals to be designated as analysts to exercise powers or perform duties or functions in relation to any matter referred to in the designation. (Clauses 4 and 6 amend sections 22(1) and 28, respectively, of the *Food and Drugs Act*; clause 14 amends section 21(1) of the *Hazardous Products Act*; clauses 21 and 25 amend sections 7(1) and 11(1), respectively, of the *Radiation Emitting Devices Act*; clause 42 amends section 45(2) of the *Pest Control Products Act*; clause 63 amends section 19(2) of the *Canada Consumer Product Safety Act*.)

2.1.1.1 POWERS OF INSPECTORS UNDER THE *PEST CONTROL PRODUCTS ACT*

Bill C-13 supplements existing powers of inspectors under the *Pest Control Products Act*. Clause 45(2) adds new provisions to section 48(1) of the Act that enable an inspector to:

- order a person to present any pest control product or other thing for inspection;

- order a person to move a means of transport for inspection;
- examine, test or take samples of anything in the place being inspected or remove anything from that place for those purposes;
- examine a document and make copies of it or take extracts from it;
- order a person to move, to not move, or to restrict access to a pest control product, or prohibit or limit access to a place being inspected;
- use a computer or other device or copying equipment in the place being inspected;
- take photographs or make recordings or sketches; and
- order any person in the place being inspected to establish his or her identity.

The bill provides for an inspector under the *Pest Control Products Act* to be accompanied by a helper, and for the inspector and helper to enter and pass through a private property (other than a dwelling house) to gain entry to any place or means of transport where there is a pest control product. (Clause 45(3) adds new sections 48(2) and 48(3) to the Act.)

The bill also adds a new section to allow a warrant to inspect a dwelling place to be issued by telephone or other means of telecommunication when it is impracticable for an inspector to appear personally before a justice to apply for the warrant. (Clause 46(2) adds new section 49(4) to the Act.)

A provision allowing for an inspector to search a place without a warrant in urgent circumstances is replaced with a new power for an inspector to order a person to provide any document, information or sample. (Clause 48 replaces section 51(1) of the Act.)

Failure to follow an inspector's order is an offence punishable on summary conviction to a fine of up to \$200,000 and/or imprisonment for up to six months or, on conviction on indictment, to a fine of up to \$500,000 and/or imprisonment for up to three years. (Clauses 45(3) and 48 add new sections 48(4) and 51(2), respectively, to the Act.)

2.1.2 LABELS

The bill amends and expands the definition of "label" in the *Radiation Emitting Devices Act* and in the *Pest Control Products Act* such that a label may be applied, attached to or included in, or may accompany, a radiation emitting device or package or a pest control product, or, in the case of a pest control product, may also "belong to" the product. Other provisions of the *Pest Control Products Act* are amended to distinguish between a "package" and a "label" of a pest control product. (Clause 17(1) amends section 2 of the *Radiation Emitting Devices Act*, clauses 33(1), 35, 54(2) and 59(2) amend sections 2(1), 6, 57(1)(b)(ii) and 67(1)(r), respectively, of the *Pest Control Products Act*.)

2.1.3 SEIZED OR DETAINED ARTICLES

Bill C-13 adds more specific information than is currently provided about an inspector's powers regarding the storage and movement of an item seized under the *Food and Drugs Act*, the *Radiation Emitting Devices Act* or the *Pest Control Products Act*. It provides a new power in the *Food and Drugs Act* and the *Pest Control Products Act* for an inspector to dispose, or order the disposal, of a seized item that is either perishable, presents a risk of injury, or otherwise endangers human health or safety or the environment. Another amendment in the *Food and Drugs Act* and the *Pest Control Products Act* makes it an offence to fail to follow an inspector's order to store, move or dispose of a seized item. In all three Acts, Bill C-13 specifies that the disposal of a seized item is to be carried out at the owner's expense. The period for the owner of a radiation emitting device in the custody of the minister to repossess that device, on the request of the minister, is extended from 30 to 60 days. After that time, the owner is deemed to have consented to the disposal of the device. (Clauses 5 and 10 amend sections 25 and 31, respectively, of the *Food and Drugs Act*, clauses 24 and 26 amend sections 10(2) and 12, respectively, of the *Radiation Emitting Devices Act*, clause 51 amends section 53 of the *Pest Control Products Act*.)

The *Food and Drugs Act* already provides for an inspector to submit a seized item or sample to an analyst for analysis or examination. Bill C-13 further specifies that such analysis or examination occurs at the expense of the person who owns the relevant article or possessed it when it was seized or when the sample was taken from it. (Clause 7 adds new section 29(1.1) to the Act.)

Bill C-13 eliminates the need for an inspector's authorization to move, alter or interfere with a seized pest control product or other thing to be in writing. (Clause 51(3) amends section 53(4) to the *Pest Control Products Act*.)

The *Radiation Emitting Devices Act* already provides for an inspector to detain a radiation emitting device for further examination or to seize a device that the inspector believes was connected to a contravention of the Act. Bill C-13 amends the Act to provide that detention or seizure ends when the inspector is satisfied that the Act and regulations have been complied with, rather than after 90 days, unless proceedings have commenced. (Clause 22(2) amends section 8(5) and clause 24 adds new section 10(3).)

Currently, section 54 of the *Pest Control Products Act* requires an inspector to bring a seized pest control product or item before a justice for an order to either return or detain it. Clause 52 of the bill replaces section 54 with new sections 53.1 and 53.2 to provide for the release of a seized pest control product or thing in the following circumstances:

- if the Act and regulations have been complied with; or
- if proceedings are instituted in relation to the seized product or thing, by order of the relevant tribunal or court, as the case may be, if sufficient evidence exists or may reasonably be obtained without the continued detention of the product or thing. The tribunal or court may impose conditions to ensure the product or thing is preserved, if required.

A transitional provision (clause 68) states that the former section 54 of the *Pest Control Products Act* continues to apply to a pest control product seized under the Act before clause 52 comes into force.

2.1.4 FORFEITURE

Bill C-13 adds new provisions to the *Food and Drugs Act*, the *Radiation Emitting Devices Act* and the *Pest Control Products Act* to allow for an article, device, item or thing seized under the relevant Act to be forfeited to the government if the owner or person entitled to possess it is not identified within 60 days after seizure or if that person does not claim it within 60 days after it is released. However, under the *Radiation Emitting Devices Act* and the *Pest Control Products Act*, such forfeiture is not permitted if proceedings are instituted in relation to the seized device, product or thing. Under any of the three Acts, the government may dispose of such a forfeited article, item or thing at the expense of the person who owned or possessed it when it was seized. (Clause 6 adds new section 26.1 to the *Food and Drugs Act*; clause 27 adds new section 12.1 to the *Radiation Emitting Devices Act*; clause 52 adds new section 54.1 to the *Pest Control Products Act*.)

The bill also clarifies the wording in sections of the *Food and Drugs Act* and the *Pest Control Products Act* – and adds a new section to the *Pest Control Products Act* – to provide for forfeiture and disposal of a seized article, item or thing either with the consent of the person who owned or possessed it when it was seized or by order of a court or tribunal if the article, item or thing was involved in a violation or contravention under the Act. In particular, the amendments provide for the disposal to be at the expense of the person who owned or possessed the article when it was seized. (Clause 6 amends section 27 of the *Food and Drugs Act*; clause 52 amends section 55 and adds new section 56.1 to the *Pest Control Products Act*.)

2.1.5 UNLAWFUL IMPORTS

If an inspector believes that a food, drug, cosmetic, device, hazardous product, radiation emitting device, pest control product or consumer product was imported unlawfully, he or she has new powers under Bill C-13 to give the owner, importer or the person in possession of the unlawful import an opportunity to remove it from Canada at his, her, or its expense, to consent to forfeiture, or to take either of these measures. Before giving such an opportunity, the inspector must consider whether the unlawful import presents a risk of injury or otherwise endangers human health or safety; he or she must also consider any other relevant factors set out in regulations. Unlawful imports forfeited to the government with a person's consent may be disposed of at the expense of the person. (Clause 6 adds new section 27.1 to the *Food and Drugs Act*; clause 15 adds new section 26.01 to the *Hazardous Products Act*; clause 27 adds new section 12.2 to the *Radiation Emitting Devices Act*; clause 52 adds new section 53.3 to the *Pest Control Products Act*; clause 65 adds new section 28.1 to the *Canada Consumer Product Safety Act*.)

Under the *Food and Drugs Act* and the *Pest Control Products Act*, the bill also gives an inspector the power to order the owner, importer or the person in possession of an unlawful import to remove it from Canada – or, if that is not possible, to destroy it –

at the person's expense. Failure to follow such an order is an offence punishable as follows:

- on summary conviction under the *Food and Drugs Act* for a first offence by a fine of up to \$500 and/or imprisonment for up to three months, and for a subsequent offence to a fine of up to \$1,000 and/or imprisonment for up to six months;
- on summary conviction under the *Pest Control Products Act* by a fine of up to \$200,000 and/or imprisonment for up to six months;
- on conviction on indictment under the *Food and Drugs Act* by a fine of up to \$5,000 and/or to imprisonment for up to three years; and
- on conviction on indictment under the *Pest Control Products Act* by a fine of up to \$500,000 and/or imprisonment for up to three years.

If the unlawful import is not removed from Canada or destroyed as ordered within a given period, it is forfeited to the government. The government may dispose of a forfeited unlawful import at the expense of the person who owned or possessed it.

An inspector may suspend forfeiture of an unlawful import for a period in order for the import to be brought into compliance if the inspector is satisfied that the unlawful import does not present a risk of injury or endanger human health or safety or the environment and will not be sold during the specified period. If the unlawful import is brought into compliance during that period, the inspector may cancel the order to remove it from Canada or to destroy it. (Clause 6 adds new section 27.2 and clause 10 amends section 31 to the *Food and Drugs Act*; clause 52 adds new section 54 to the *Pest Control Products Act*.)

2.1.6 REGULATORY POWERS

Bill C-13 makes a number of amendments to the *Food and Drugs Act*, the *Radiation Emitting Devices Act*, the *Pest Control Products Act* and the *Canada Consumer Product Safety Act* to make the regulatory provisions of the Acts clearer and more precise. For example, the bill specifies that:

- the power to regulate the importation of food, drugs, cosmetics and devices includes the power to regulate any importation that is solely for the purpose of export;
- regulations requiring persons who sell food, drugs, cosmetics or devices to maintain books and records may extend to persons who import them solely for the purpose of export;
- regulations may exempt a person or activity – in addition to a food, drug, cosmetic or device – from all or any of the provisions of the *Food and Drugs Act*;
- the Governor in Council may make regulations concerning the time and manner in which information, notices and documents are provided under the Act;
- the Governor in Council may make regulations respecting costs under the *Radiation Emitting Devices Act* or under the *Canada Consumer Product Safety Act*, and

- the Governor in Council may make regulations establishing classes, categories and subcategories of pest control products.

(To achieve the changes specified above, clause 8 amends section 30 of the *Food and Drugs Act*; clause 28(5) amends section 13 of the *Radiation Emitting Devices Act*; clause 59(4) adds new section 67(1)(z.21) to the *Pest Control Products Act*; and clause 67 adds new section 37(1)(o.1) to the *Canada Consumer Product Safety Act*.)

With the exception of the *Canadian Environmental Protection Act, 1999*, the bill amends the Acts to empower the Governor in Council to make regulations for the implementation of international agreements that affect any food, drug, cosmetic, device, hazardous product, radiation emitting device, pest control product or consumer product. (Clause 8 adds new section 30(1)(s) to the *Food and Drugs Act*; clauses 13 and 16 add new sections 15(1)(l.1) and 27(a.41), respectively, to the *Hazardous Products Act*; clause 28(5) adds new section 13(1)(h.3) to the *Food and Drugs Act*; clause 59(4) amends section 67(1)(z.3) of the *Pest Control Products Act*; clause 67 adds new section 37(1)(o.2) to the *Canada Consumer Product Safety Act*.)

Clause 59(5) adds new sections 67(2.1) to 67(2.3) to the *Pest Control Products Act* to allow the following types of documents to be incorporated by reference,¹⁵ as they exist on a particular date or as amended from time to time, into regulations made under the Act:

- documents that the Minister of Health produces jointly with another government for the purpose of harmonizing the regulation with other laws; and
- technical or explanatory documents that the minister produces, including specifications, illustrations, graphs, test methods, procedures, standards, etc.

2.1.7 COSTS

The bill amends the *Food and Drugs Act*, the *Radiation Emitting Devices Act*, the *Pest Control Products Act* and the *Canada Consumer Product Safety Act* to enable the government to recover – as a debt due to the government – costs incurred in relation to anything required or authorized under the Act,¹⁶ such as inspection, analysis, examination, storage, movement, seizure, detention, forfeiture, disposal, enforcement or risk-control measures taken. Proceedings to recover such a debt must begin within five years. If there is a default in payment, the debt may be certified by the Minister of Health and registered in Federal Court as a judgment obtained in that court for a debt. (Clause 9 adds sections 30.7 and 30.8 to the *Food and Drugs Act*; clause 27 adds sections 12.3 and 12.4 to the *Radiation Emitting Devices Act*; clause 58 amends section 64 and adds sections 64.1 and 64.2 to the *Pest Control Products Act*; clause 66 adds new sections 36.1 and 36.2 to the *Canada Consumer Product Safety Act*.)

2.1.8 TRANSHIPMENT

In the context of the bill, transshipment refers to the practice of importing a product solely for the purpose of export.

A new provision added to the *Food and Drugs Act* specifies that the Act does not apply to any packaged food, drug, cosmetic or device transhipped through Canada if it meets any requirements set out in regulations. (Clause 12 adds new section 38 to the *Food and Drugs Act*.)

Similarly, Bill C-13 amends a regulatory provision in the *Radiation Emitting Devices Act* and the *Pest Control Products Act* to make it clear that the power of the Governor in Council to make regulations exempting any radiation emitting device or pest control product from the application of the relevant Act applies to devices and products imported solely for the purpose of export. (Clause 28(2) amends section 13(1)(c) of the *Radiation Emitting Devices Act*, clause 59(4) amends section 67(1)(z.4) of the *Pest Control Products Act*.)

Bill C-13 adds a new requirement in the *Pest Control Products Act* that a person importing an unregistered pest control product solely for the purpose of export, or for a purpose set out in the regulations, provide product safety information to workplaces handling or storing the pest control product. (Clause 39 adds new section 41.1 to the Act.)

2.2 AMENDMENTS TO A SPECIFIC ACT

2.2.1 FOOD AND DRUGS ACT

Bill C-13 clarifies the wording in a section of the *Food and Drugs Act* that specifies that the Act does not apply to any packaged food, drug, cosmetic or device intended for export in accordance with the laws of the importing country. It also removes the requirement for the packaging to be marked with the word “Export” or “Exportation” and provides for regulations to be made that expand the requirements that must be met in order for a packaged food, drug, cosmetic or device to be exempt from the Act. (Clause 11 amends section 37(1) of the Act.)

The bill clarifies the wording of an existing exception to the conditions under which exported goods that comply with the laws of the importing country are exempt from the Act. Clause 11 also adds new sections 37(1.1) and 37(1.2), which provide the further exceptions that:

- specific sections of the *Food and Drugs Act* apply to any food, any drug that is not a natural health product, any cosmetic and any device to set basic rules to guard against unsanitary conditions, deceptive packaging, harmfulness, etc., even if the product is intended for export only; and
- regulations may specify regulatory provisions for the method of manufacture, preparation and packaging that apply to any packaged food, drug, cosmetic or device despite the item being intended for export only.

2.2.2 *CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999*

The *Canadian Environmental Protection Act, 1999* regulates the concentration of nutrients, such as phosphorus, in cleaning products and water conditioners for the purpose of preventing or reducing the growth of aquatic vegetation caused by the release of these nutrients in waters. Bill C-13 empowers the Governor in Council to make regulations exempting a cleaning product or water conditioner from the maximum nutrient concentration levels. (Clause 31 adds new section 118(1.1) to the Act.)

The bill also specifies that any regulations made under the Act for the purposes of preventing or reducing the growth of aquatic vegetation may, on the basis of any factor, establish and distinguish among classes of cleaning products or water conditioners. (Clause 31 adds new section 118(1.2).)

2.2.3 *PEST CONTROL PRODUCTS ACT WITH A RELATED AMENDMENT TO THE AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE MONETARY PENALTIES ACT*

Bill C-13 adds a provision affirming that a “violation” under the *Pest Control Products Act* includes any refusal or neglect in the performance of any duty imposed by or under the Act. (Clause 33(1) amends the definition of “violation” in section 2(1) of the Act.)

A related amendment is made to the *Agriculture and Agri-Food Administrative Monetary Penalties Act*¹⁷ to empower the Minister of Agriculture and Agri-Food to make regulations designating such a refusal or neglect as a violation that may be dealt with in accordance with that Act. A consequential amendment is also made to the English version of that Act. (Clauses 70 and 71 amend section 4(1)(a)(iii) and, in the English version, section 7(1)(c), respectively, of the Act.)

In relation to the offence of misusing a pest control product, the bill repeals a defence permitted by the *Pest Control Products Act* that the accused reasonably believed that the directions on the label were compliant and that the accused followed those directions. At the same time, the bill prohibits any person from labelling a pest control product in a false or misleading way. (Clause 35(2) repeals section 6(6) and amends section 6(7) of the Act.)

Clause 35(3) of the bill adds new sections 6(8.1) to 6(8.3) to the Act, which specify the following new offences:

- altering, destroying or falsifying a document that a person is required to keep, maintain or provide under the Act;
- altering a document issued under the Act, or possessing or using an altered document; and
- possessing or using a document that resembles an official document under the Act.

A new obligation is imposed on the registrant of a pest control product to make product safety information available to persons who manufacture, handle, store or

use the product. (Clause 36 repeals section 8(3), replaces it with section 8(4.1)(a) and adds new section 8(4.1)(b) to the Act.)

The bill also amends an existing provision describing measures that an inspector may take if he or she believes that there has been a contravention under the Act and that a pest control product poses an unacceptable health or environmental risk. The power of an inspector to confiscate the product is repealed, and the power to dispose of the product is amended to specify that the disposal will be carried out at the expense of the owner or person having possession of the product. (Clause 55(1) amends section 59(2)(b) of the Act.)

An amendment allows for notices and other documents required or authorized to be delivered under the Act, which formerly were required to be delivered by any method that provides proof of delivery, to be delivered by any method set out in regulations. (Clause 57 amends section 62(1) of the Act.)

Finally, the bill adds a defence to the *Pest Control Products Act* that a person is not to be found guilty of an offence under the Act if that person exercised all due diligence to prevent the commission of the offence. This defence is not available for an offence of knowingly providing false or misleading information, of failing to protect confidential test data or business information, of disciplining or harassing a whistle-blower, of wilfully or recklessly causing risk of imminent death or harm to a person or harm to the environment while contravening the Act, or of a director or officer of a corporation failing to take reasonable care to ensure that the corporation complies with the Act. These exceptions to the availability of the due diligence defence are also added to an existing section that makes the due diligence defence available to an accused in a prosecution where the offence was committed by an employee or agent of the accused. (Clause 60 adds new section 69.1 and clause 61 amends section 71 of the Act.)

2.2.4 CANADA CONSUMER PRODUCT SAFETY ACT

Bill C-13 provides for regulations to be made under the *Canada Consumer Product Safety Act* to specify the means of identifying the owner or the person entitled to possess a seized thing. (Clause 64 amends section 26(1)(a) of the Act.)

2.3 INSUBSTANTIAL CHANGES

Bill C-13 makes a number of insubstantial amendments to better align the English and French versions of various Acts, to modernize or otherwise improve existing language, or to update or add a new reference to a provision number that is changed by Bill C-13. (Clauses 2 and 3 amend section 16(a) and the heading of Part II, respectively, of the French version of the *Food and Drugs Act*; clause 22(1) amends sections 8(1)(a) and 8(1)(b) (French version) and clauses 22(2), 23 and 29 amend sections 8(4), 9(1) and 16, respectively, of the *Radiation Emitting Devices Act*; clause 30 amends section 117 of the *Canadian Environmental Protection Act*; clauses 33(1), 35, 36(1), 37(1), 43, 45(1), 46(1), 47, 49, 52, 54, 55, 58 and 59 amend sections 2(1), 6, 8(1)(a), 33(7), 46(1), 48(1), 49(2)(b), 50(1), 52, 56, 57, 59, 63 and 67(1), respectively, clause 37(2) adds new section 33(8), and clause 62 amends sections 57(4) and 59 to 61 of the *Pest Control Products Act*.)

2.3.1 TRANSITIONAL PROVISION

Clause 69 of the bill provides for the transition, in the English version of the *Pest Control Products Act*, from the term “requirement” to the term “order.” A “requirement” in respect of which notice is given before the relevant amendments come into effect may be reviewed and/or enforced as an “order” after the relevant amendments come into force.

2.4 COORDINATING AMENDMENTS

Clause 72 coordinates the coming into force of Bill C-13 with the *Safe Food for Canadians Act*,¹⁸ which was enacted in 2012 but was not substantially in force when Bill C-13 was introduced.

Specifically, the *Safe Food for Canadians Act* will repeal the *Canada Agricultural Products Act*. The review tribunal currently continued under that Act will in future be continued under the *Agriculture and Agri-Food Administrative Monetary Penalties Act*. Clause 72(2) of Bill C-13 ensures that section 53.2 of the *Pest Control Products Act* will refer to the *Safe Food for Canadians Act* once that Act comes into force, rather than the *Canada Agricultural Products Act*, to which it currently refers.

Clause 72(3) amends section 55(2) of the *Pest Control Products Act* to ensure that the different amendments made to this section by Bill C-13 and the *Safe Food for Canadians Act* are included in the final version of the section once both Bill C-13 and the *Safe Food for Canadians Act* are in force.

Similarly, clauses 72(4) and 72(5) ensure that the final versions of section 4(1)(a)(iii) and the English version of section 7(1)(c), respectively, of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* reflect the amendments made to these two sections by each of Bill C-13 and the *Safe Food for Canadians Act*, regardless of which amending Act comes into force first.

2.5 COMING INTO FORCE

Most sections of Bill C-13 come into force on Royal Assent. However, clause 73 of the bill provides for the following clauses of the bill to come into force on other days, to be fixed by order of the Governor in Council:

- clause 12, which adds new section 38 to the *Food and Drugs Act* to enable regulations to be made that set out requirements that must be met for any packaged food, drug, cosmetic or device transhipped through Canada to be exempt from the *Food and Drugs Act*;
- clauses 36(2) and 36(3), which repeal section 8(3) of the *Pest Control Products Act* and add new section 8(4.1) to that Act, respectively, imposing a new obligation on the registrant of a pest control product to make product safety information available to persons who manufacture, handle, store or use the pest control product; and

- clause 39, which adds a new section 41.1 to the *Pest Control Products Act* requiring a person importing an unregistered pest control product solely for the purpose of export – or for a purpose set out in the regulations – to provide product safety information to workplaces where the pest control product is handled or stored.

NOTES

1. [Bill C-13, An Act to amend the Food and Drugs Act, the Hazardous Products Act, the Radiation Emitting Devices Act, the Canadian Environmental Protection Act, 1999, the Pest Control Products Act and the Canada Consumer Product Safety Act and to make related amendments to another Act](#), 1st Session, 42nd Parliament (first reading version, 13 April 2016).
2. The Doha Round, officially launched in November 2001 at the World Trade Organization [WTO] Fourth Ministerial Conference in Doha, Qatar, is the latest round of trade negotiations among the WTO membership. The work program covers about 20 areas of trade. One of the fundamental objectives of the Doha Round is to improve the trading prospects of developing countries. For a detailed summary of the negotiations on trade facilitation from July 2004 to the final agreement in November 2014, see Nora Neufeld, [The Long and Winding Road: How WTO Members Finally Reached a Trade Facilitation Agreement](#), Staff Working Paper ERSD-2014-06, World Trade Organization, Economic Research and Statistics Division, 7 April 2014.
3. See Government of India, Ministry of Commerce & Industry, [Meeting of the General Council WTO Geneva 24–25 July 2014: Statement by India](#), 25 July 2014.
4. See World Trade Organization, “[The Bali decision on stockholding for food security in developing countries](#),” *Agriculture Negotiations: Fact Sheet*, 27 November 2014.
5. The text of the agreement can be downloaded from the “[Trade facilitation](#)” page on the WTO website.
6. Organisation for Economic Co-operation and Development, [The Costs and Benefits of Trade Facilitation](#), November 2005.
7. Neufeld (2014).
8. For more information, see Laura Barnett, Alexandre Gauthier and Erin Shaw, “[Ratifying and Implementing Trade and Investment Treaties in Canada](#),” *HillNote*, Publication no. 2014-16-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 9 April 2014.
9. [Food and Drugs Act](#), R.S.C. 1985, c. F-27.
10. [Hazardous Products Act](#), R.S.C. 1985, c. H-3.
11. [Radiation Emitting Devices Act](#), R.S.C. 1985, c. R-1.
12. [Canadian Environmental Protection Act, 1999](#), S.C. 1999, c. 33.
13. [Pest Control Products Act](#), S.C. 2002, c. 28.
14. [Canada Consumer Product Safety Act](#), S.C. 2010, c. 21.
15. To incorporate a document by reference means to include that document (text, graph, specifications, standards, etc.) in a law or regulation by referring to it rather than by reproducing it in the law or regulation.

16. As an exception to this general statement, the costs incurred by the government in the forfeiture and disposal of an item that is the subject of a violation under the *Canada Consumer Product Safety Act* may not be recovered in this manner. Note, however, that such forfeiture and disposal is at the expense of the owner or person who was entitled to possess the item at the time of its seizure. See *Canada Consumer Product Safety Act*, s. 64.
17. [*Agriculture and Agri-Food Administrative Monetary Penalties Act*](#), S.C. 1995, c. 40.
18. [*Safe Food for Canadians Act*](#), S.C. 2012, c. 24.