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# Regulations Amending the Application of Provincial Laws Regulations: SOR/2020-87

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Canada Gazette, Part II, Volume 154, Extra Number 1

Registration

SOR/2020-87 April 11, 2020

CONTRAVENTIONS ACT

P.C. 2020-249 April 10, 2020

Her Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to section 65.1 <sup>a</sup> of the *Contraventions Act* <sup>b</sup>, makes the annexed *Regulations Amending the Application of Provincial Laws Regulations*.

## Regulations Amending the Application of Provincial Laws Regulations

### Amendments

**1 Paragraphs 1(1)(a) to (c) of Part III of the schedule to the *Application of Provincial Laws Regulations* <sup>1</sup> are replaced by the following:**

- (a)** the *Provincial Offences Procedure Act* of New Brunswick, S.N.B. 1987, c. P-22.1, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province;
- (b)** the *Provincial Offences Procedure for Young Persons Act* of New Brunswick, S.N.B. 1987, c. P-22.2, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province; and
- (c)** the *Victims Services Act* of New Brunswick, R.S.N.B. 2016, c. 113, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province.

**2 Paragraph 1(1)(c) of Part V of the schedule to the Regulations is replaced by the following:**

(c) the *French Language Services Act* of Prince Edward Island, R.S.P.E.I. 1988, c. F-15.2, and any regulations made under that Act.

**3 The schedule to the Regulations is amended by adding the following after Part VIII:****PART IX**

## Province of Saskatchewan

**1 (1)** Subject to subsection (2), the following enactments apply in respect of contraventions alleged to have been committed on or after the day on which this Part comes into force, in Saskatchewan or within the territorial jurisdiction of the courts of Saskatchewan:

(a) *The Summary Offences Procedure Act, 1990* of Saskatchewan, S.S. 1990-91, c. S-63.1, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province; and

(b) *The Victims of Crime Act, 1995* of Saskatchewan, S.S. 1995, c. V-6.011, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province.

**(2)** The enactments referred to in subsection (1) apply with any modifications that the circumstances require and, without limiting the generality of the foregoing, for the purposes of that subsection

(a) a reference to “offence notice” or “offence notice ticket” shall be read as a reference to “ticket”;

(b) a reference to “peace officer” shall be read as a reference to “enforcement authority” and, in the case of a French version, a reference to “agent de la paix” shall be read as a reference to “agent de l’autorité”;

(c) a reference to “prosecutor” shall be read as a reference to “Attorney General”; and

(d) a reference to “specified penalty sum” shall be read as a reference to the amount of the fine established by the Governor in Council pursuant to paragraph 8(1)(c) of the *Contraventions Act*.

**2** Section 57 of *The Summary Offences Procedure Act, 1990* of Saskatchewan does not apply in respect of the prosecution of a contravention.

**3** Proceedings in respect of a contravention may be commenced under either Part III or Part IV of *The Summary Offences Procedure Act, 1990* of Saskatchewan.

**4** The enactments made applicable by this Part shall be read as if sections 530 and 530.01 and paragraphs 530.1(a) to (h) of the *Criminal Code*, with any modifications that the circumstances require, were contained in those enactments.

**PART X**

## Province of Alberta

**1 (1)** Subject to subsection (2), the following provision of an enactment and enactments apply in respect of contraventions alleged to have been committed on or after the day on which this Part comes into force, in Alberta or within the territorial jurisdiction of the courts of Alberta:

(a) section 34 of the *Corrections Act* of Alberta, R.S.A. 2000, c. C-29, and any regulations made under that provision;

(b) the *Provincial Offences Procedure Act* of Alberta, R.S.A. 2000, c. P-34, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province;

(c) the *Victims of Crime Act* of Alberta, R.S.A. 2000, c. V-3, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province; and

(d) the *Youth Justice Act* of Alberta, R.S.A. 2000, c. Y-1, any regulations made under that Act and any Act of that province referred to in that Act relating to proceedings in respect of offences created by a law of that province.

**(2)** The provision of an enactment and the enactments referred to in subsection (1) apply with any modifications that the circumstances require and, without limiting the generality of the foregoing, for the purposes of that subsection, in those enactments

(a) a reference to “enactment” shall be read to include an enactment as defined in section 2 of the *Contraventions Act*;

(b) a reference to “offence” shall be read as a reference to “contravention”;

(c) a reference to “peace officer” shall be read as a reference to “enforcement authority”;

(d) a reference to “prosecutor” shall be read as a reference to “Attorney General”;

(e) a reference to “specified penalty” shall be read as a reference to the amount of the fine established by the Governor in Council pursuant to paragraph 8(1)(c) of the *Contraventions Act*; and

(f) a reference to “violation ticket” shall be read as a reference to “ticket”.

**2** Subsections 7(1) and 14(1) of the *Provincial Offences Procedure Act* of Alberta and subsection 12(1) of the *Procedures Regulation*, Alta. Reg. 63/2017, do not apply in respect of the prosecution of a contravention.

**3** Proceedings in respect of a contravention may be commenced under either Part 2 or Part 3 of the *Provincial Offences Procedure Act* of Alberta.

**4** The provision of an enactment and the enactments made applicable by this Part shall be read as if sections 530 and 530.01 and paragraphs 530.1(a) to (h) of the *Criminal Code*, with any modifications that the circumstances require, were contained in those enactments.

## Coming into Force

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

# REGULATORY IMPACT ANALYSIS STATEMENT

*(This statement is not part of the Regulations.)*

## Issues

The schedule to the *Application of Provincial Laws Regulations* is amended in order to incorporate by reference the provincial ticketing schemes of Alberta and Saskatchewan. Incorporating these provincial laws by reference would allow for Alberta and/or Saskatchewan, subject to an agreement with the federal government, to administer and enforce federal offences designated as contraventions under the *Contraventions Act* in accordance with the existing provincial ticketing schemes already in place in those jurisdictions.

These regulatory amendments are being made as an anticipatory measure to enable and facilitate the swift use of provincial ticketing regimes in Alberta and Saskatchewan — should either or both of the provinces agree to do so — to enforce provisions of the *Quarantine Act* designated as contraventions as part of the Government of Canada's response to the COVID-19 pandemic.

Furthermore, these amendments address comments made by the Standing Joint Committee for the Scrutiny of Regulations.

## Background

In October 1992, Parliament passed the *Contraventions Act* which provides an alternative to the summary conviction procedure set out in Part XXVII of the *Criminal Code* for the prosecution of certain federal offences designated as contraventions. The *Contraventions Act* provides a ticketing procedure for the prosecution of certain federal offences designated as contraventions. The federal ticketing procedure, pursuant to the *Contraventions Act*, is referred to as “the Contraventions Regime.” 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, thereby 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.

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.

The *Contraventions Act* was amended in 1996 in order to provide the Governor in Council with the authority to make regulations which would allow federal contraventions to be prosecuted in accordance with the existing ticketing scheme of a given province or territory, thus allowing for the use of the procedures of the given provincial ticketing systems to apply to federal contraventions.

The *Application of Provincial Laws Regulations* (APLR), adopted on August 1, 1996, identify, in their schedule, the laws of each province that apply and incorporate those laws by reference. The APLR provide for some equivalency of terminology between the terms used in the *Contraventions Act* and the terms used in provincial statutes. The APLR also excludes from each one of those provincial enactments, and for the purposes of the federal contraventions, any provisions that come in conflict with the principles set out in the *Contraventions Act*. For example, any provision in provincial legislation that stipulates that an offender prosecuted by means of a ticket could also face a jail term as a penalty is excluded. Under section 42 of the *Contraventions Act*, an offender who is found guilty of a contravention can only be sentenced to a fine. The incorporation by reference of provincial laws by way of federal regulations accommodates practical requirements of flexibility and efficiency and ensures useful bridging between federal and provincial legislation.

The *Contraventions Act* was also amended in 1996 in order to provide the Minister of Justice with the authority to enter into agreements with provincial or territorial governments with regards to the administration and enforcement of the Act. Agreements cover, in particular, the prosecution process, as well as the sharing of the fines collected and the fees incurred as a result of the provincial or territorial jurisdiction administering the Contraventions Regime on behalf of the federal government. The Contraventions Regime is applicable in all provinces except Alberta and Saskatchewan. Negotiations with these two provinces are ongoing.

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 process.

In Alberta and Saskatchewan, offences designated as contraventions can only be enforced through the use of the summary conviction procedure of the *Criminal Code* even if such offences are considered minor violations. The *Criminal Code* summary procedure is more time consuming and costly for the offender, the government and justice system as it requires the offender to appear in court. The Contraventions Regime presents a more reasonable approach to enforce minor offences as an offender can choose to plead guilty and pay a fine without having to appear in court and without incurring a criminal record.

In response to the COVID-19 pandemic, which began to have serious impacts in Canada in March 2020, the Government of Canada made numerous orders under the *Quarantine Act*, which, among other things, restrict travel to Canada and require certain persons to self-isolate. These measures are designed to slow and prevent the spread of the COVID-19 virus and therefore it is vitally important that they be strictly followed. In order to ensure compliance with any orders made under the *Quarantine Act*, and to deter and prevent non-compliance, numerous provisions of the *Quarantine Act* have been designated as contraventions, meaning that any person in Canada who is subject to an order under the *Quarantine Act* could be issued a ticket and a fine for violating the terms of that order.

In order to employ ticketing for these offences in Alberta and Saskatchewan, their provincial laws first need to be incorporated by reference into the *Application of Provincial Laws Regulations*.

## Objective

These amendments to the *Application of Provincial Laws Regulations* ensure that, once an agreement is signed with the provinces of Alberta and Saskatchewan, the existing ticketing schemes of each of those provinces applies integrally and adequately to federal contraventions committed within those jurisdictions, excluding provincial provisions which are incompatible with the letter and spirit of the *Contraventions Act*.

In the context of the Government of Canada's response to COVID-19, these amendments are the first step to implementing the Contraventions Regime in Alberta and Saskatchewan, which will provide a ticketing option to enforce offences of the *Quarantine Act* that are designated as contraventions. Enforcement of *Quarantine Act* offences in relation to COVID-19 is meant to slow and prevent the spread of COVID-19, and ultimately save lives and preserve the health of Canadians.

The amendments also reflect comments made by the Standing Joint Committee for the Scrutiny of Regulations.

## Description

The amendments to the *Application of Provincial Laws Regulations* can be summarized as follows:

- The English and French versions of the *Application of Provincial Laws Regulations* are amended in order to include an additional part to the schedule pertaining to the Province of Alberta.
- The English and French versions of the *Application of Provincial Laws Regulations* are amended in order to include an additional part to the schedule pertaining to the Province of Saskatchewan.

These new parts include the mention to provincial enactments which apply to the enforcement of federal contraventions; identify the equivalency of terminology between the terms used in the *Contraventions Act* and the terms used in the provincial statutes; and, finally, exclude provisions that came in conflict with the principles set out in the *Contraventions Act*.

Amendments made in order to address comments made by the Standing Joint Committee for the Scrutiny of Regulations are summarized as follows:

- Paragraph 1(1)(a) of Part III to the schedule is amended in order to include the correct reference to the *Provincial Offences Procedure Act* which should indicate S.N.B 1987, c. P-22.1 in the English version and L.N.-B 1987, c. P-22.1 in the French version.
- Paragraph 1(1)(b) of Part III to the schedule is amended in order to include the correct reference to the *Provincial Offences Procedure for Young Persons Act* which should indicate S.N.B 1987, c. P-22.2 in the English version and L.N.-B 1987, c. P-22.2 in the French version.
- Paragraph 1(1)(c) of Part III to the schedule is amended in order to reflect the repeal of the *Victims Services Act*, R.S.N.B., c. V-2.1 of New Brunswick and its replacement, in 2016, with the *Victims Services Act*, R.S.N.B., c. 113.

## Regulatory development

### **Consultation**

These amendments are made to support efforts to prevent risks to the health of Canadians, in the context of the response to the coronavirus (COVID-19) and, therefore, no public consultations were conducted.

These amendments do not create or impose any new restrictions or burdens on individuals or businesses. Incorporation by reference of provincial ticketing schemes in the *Application of Provincial Laws Regulations* is a technical first step which allows for the use of existing provincial ticketing schemes to apply to federal offences, those designated as contraventions. When an agreement is signed with the relevant provincial government, in conformity with the *Contraventions Act*, the Contraventions Regime then becomes applicable in the jurisdiction. Negotiations with Alberta and Saskatchewan related to the potential implementation of the Contraventions Regime are ongoing. These regulatory amendments are an anticipatory measure and do not commit or compel either province to sign an agreement or implement the regime.

The amendments proposed by the Standing Joint Committee for the Scrutiny of Regulations are technical in nature and are required in order to reflect the accurate reference to the provincial legislation. No public consultations were conducted on the matter.

### **Modern treaty obligations and Indigenous engagement and consultation**

Indigenous peoples are not expected to be differentially impacted by this proposal. These amendments to the *Application of Provincial Laws Regulations* ensure that, once an agreement is signed with the provinces of Alberta and Saskatchewan, the existing provincial ticketing regime in each of those provinces applies integrally and adequately to federal contraventions committed within those jurisdictions.

### ***Instrument choice***

To be able to rely on provincial procedures already established in Alberta and Saskatchewan, for the administration and enforcement of federal offences designated as contraventions, the incorporation by reference requirement must be met. The incorporation by reference of provincial regimes has similarly been completed for the other provinces, as indicated in the schedule to the *Application of Provincial Laws Regulations*.

## **Regulatory analysis**

### ***Benefits and costs***

The Contraventions Regime allows enforcement officers to use a more graduated approach to enforcement that reflects the severity of each offence as opposed to relying exclusively on warnings or the summary conviction procedure set out in the *Criminal Code*.

These amendments do not generate any costs; they represent the first step, and a legal requirement, in order to implement the Contraventions Regime by relying on existing provincial ticketing structures. It is only when the second requirement is met, the signing of an Administration and Enforcement *Contraventions Act* agreement, that the Contraventions Regime becomes applicable in those jurisdictions.

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 and enforcement of federal contraventions are covered by the revenues generated by the payment of fines, making the Regime cost neutral for the provinces. 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 simply incorporate existing laws; they do not introduce any new requirements or burdens on individuals.

### ***Rationale***

The amendments ensure that, once an agreement is signed with the provinces of Alberta and Saskatchewan, the existing ticketing scheme of those provinces apply integrally and adequately to federal contraventions committed within those jurisdictions, excluding provincial provisions which are incompatible with the letter and spirit of the Act.

The amendments also ensure that comments made by the Standing Joint Committee are addressed.

## **Implementation, compliance and enforcement, and service standards**

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

The amendments to the Regulations constitute the first legal requirement to the implementation of the Contraventions Regime in Alberta and Saskatchewan. Agreements must still be signed with the relevant provincial governments, in conformity with the *Contraventions Act*, in order to have federal offences designated as contraventions enforced through the Contraventions Regime in those jurisdictions.

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## Footnotes

a S.C. 1996, c. 7, s. 37

b S.C. 1992, c. 47

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