

Revised Statutes  
of Canada

*Wild Animal and Plant  
Protection and  
Regulation of  
International and  
Interprovincial  
Trade Act*

*being*

Chapter W-8.5 (1992, c.52)  
(updated to May 19, 2008).

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## CHAPTER W-8.5

An Act respecting the protection of certain species of wild animals and plants and the regulation of international and interprovincial trade in those species

[Assented to 17th December, 1992]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### SHORT TITLE

#### Short title

1 This Act may be cited as the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*.

### INTERPRETATION

#### Definitions

2(1) In this Act,

“**animal**” means any specimen, whether living or dead, of any species of animal that is listed as “fauna” in an appendix to the Convention, and includes any egg, sperm, tissue culture or embryo of any such animal; « *animal* »

“**Convention**” means the Convention on international trade in endangered species of wild fauna and flora, made on March 3, 1973 in Washington, D.C., United States and ratified by Canada on April 10, 1975, as amended from time to time, to the extent that the amendment is binding on Canada; « *Convention* »

“**conveyance**” means any vehicle, aircraft or water-borne craft or any other contrivance that is used to move persons or goods; « *moyen de transport* »

“**distribute**” includes sell; « *distribuer* »

“**Minister**” means the Minister of the Environment; « *ministre* »

“**officer**” means a person, or a person who belongs to a class of persons, designated pursuant to section 12; « *agent* »

“**plant**” means any specimen, whether living or dead, of any species of plant that is listed as “flora” in an appendix to the Convention, and includes any seed, spore, pollen or tissue culture of any such plant; « *végétal* »

“**prescribed**” means prescribed by regulation; *Version anglaise seulement*

“**transport**” includes send. « *acheminer* »

## BINDING ON HER MAJESTY

### Binding on Her Majesty

3 This Act is binding on Her Majesty in right of Canada or a province.

## PURPOSE

### Purpose

4 The purpose of this Act is to protect certain species of animals and plants, particularly by implementing the Convention and regulating international and interprovincial trade in animals and plants.

## AGREEMENTS

### Federal-provincial agreements

5 The Minister may enter into an agreement with the government of any province to provide for the cooperative management and administration of this Act and to avoid conflict between, and duplication in, federal and provincial regulatory activity.

## PROHIBITIONS

### Importation

6(1) No person shall import into Canada any animal or plant that was taken, or any animal or plant, or any part or derivative of an animal or plant, that was possessed, distributed or transported in contravention of any law of any foreign state.

### Importation and exportation

(2) Subject to the regulations, no person shall, except under and in accordance with a permit issued pursuant to subsection 10(1), import into Canada or export from Canada any animal or plant, or any part or derivative of an animal or plant.

### Interprovincial transport

(3) Subject to the regulations, no person shall, except under and in accordance with a permit issued pursuant to subsection 10(1), transport from one province to another province any animal or plant, or any part or derivative of an animal or plant.

### Transport requiring provincial authorization

7(1) Where the transportation out of a province of an animal or plant, or any part or derivative of an animal or plant, is permitted by the province only if the person who transports it holds a permit issued by a competent authority in that province, no person shall, except under and in accordance with such a permit, transport any animal, plant or part or derivative of an animal or plant from that province to another province.

### Provincial prohibitions

(2) No person shall transport from a province to another province any animal or plant, or any part or derivative of an animal or plant, where the animal or plant was taken, or the animal, plant, part or derivative was possessed, distributed or transported, in contravention of any provincial Act or regulation.

**Possession**

**8** Subject to the regulations, no person shall knowingly possess an animal or plant, or any part or derivative of an animal or plant,

- (a) that has been imported or transported in contravention of this Act;
- (b) for the purpose of transporting it from one province to another province in contravention of this Act or exporting it from Canada in contravention of this Act; or
- (c) for the purpose of distributing or offering to distribute it if the animal or plant, or the animal or plant from which the part or derivative comes, is listed in Appendix I to the Convention.

**Documents**

**9** Every person who imports into Canada, exports from Canada or transports from one province to another province an animal or plant, or any part or derivative of an animal or plant, shall keep in Canada, in the prescribed manner and for the prescribed period, any documents that are required to be kept by the regulations.

FEDERAL PERMITS

**Issuance**

**10(1)** The Minister may, on application and on such terms and conditions as the Minister thinks fit, issue a permit authorizing the importation, exportation or interprovincial transportation of an animal or plant, or any part or derivative of an animal or plant.

**Application for permit**

(2) An application shall be made in the form and on the terms and conditions that the Minister requires, contain all the information that the Minister requires and be accompanied by the prescribed fees.

**Revocation or suspension**

(3) The Minister may, after giving a person who holds a permit an opportunity to make representations, revoke or suspend the permit for contravention of any term or condition of the permit.

**Delegation by Minister**

(4) The Minister may delegate to any minister of the Crown in right of Canada or of a province or to any person who is employed by the Government of Canada, the government of a province or any other government in Canada any power conferred on the Minister under this section relating to permits. The minister or other person to whom the power is delegated may then exercise the power subject to any terms and conditions that the Minister specifies.

1992, c. 52, s. 10; 2002, c. 29, s. 139.

**Misrepresentation**

**11** No person shall knowingly furnish any false or misleading information or make any misrepresentation with respect to any matter in this Act.

## ADMINISTRATION

### Officers

**12(1)** The Minister may designate such persons or classes of persons as the Minister considers necessary to act as officers for the purposes of this Act or any provision thereof, and where the person to be designated is an employee, or the class of persons to be designated consists of employees, of the government of a province, the Minister shall only designate that person or class with the agreement of that government.

### Powers of peace officers

(2) Officers designated under subsection (1) have, for the purposes of this Act, all the powers of a peace officer, but the Minister may limit, in any manner the Minister considers appropriate, the powers that certain officers may exercise for the purposes of this Act and, where those powers are so limited, they shall be specified in the certificate referred to in subsection (3).

### Certificate to be shown

(3) On entering any place under this Act, an officer shall, on request, show the person in charge or the occupant of the place a certificate, in the form approved by the Minister, certifying that the officer has been designated pursuant to this section.

### Obstruction

(4) No person shall knowingly make any false or misleading statement either orally or in writing to, or obstruct or hinder, an officer who is carrying out duties or functions under this Act or the regulations.

### Detention

**13** Any thing that has been imported into or is about to be exported from Canada, or has been transported, or is about to be transported, from a province to another province, may be detained by an officer until the officer is satisfied that the thing has been dealt with in accordance with this Act and the regulations.

### Inspections

**14(1)** For the purpose of ensuring compliance with this Act and the regulations, an officer may at any reasonable time enter and inspect any place in which the officer believes, on reasonable grounds, there is any thing to which this Act applies, or there are any documents relating to the administration of this Act or the regulations, and the officer may

(a) open or cause to be opened any container that the officer believes, on reasonable grounds, contains such a thing;

(b) inspect any such thing and take samples free of charge;

(c) require any person to produce for inspection or copying, in whole or in part, any document that the officer believes, on reasonable grounds, contains any information relevant to the administration of this Act or the regulations; and

(d) seize any thing by means of or in relation to which the officer believes, on reasonable grounds, this Act or the regulations have been contravened or that the officer believes, on reasonable grounds, will afford evidence of a contravention of this Act or the regulations.

**Conveyance**

(2) For the purpose of carrying out an inspection under subsection (1), an officer may stop a conveyance or direct that it be moved to a place where the inspection may be carried out.

**Dwelling-place**

(3) An officer may not enter a dwelling-place except with the consent of the occupant or under the authority of a warrant issued under subsection (4).

**Warrant**

(4) Where on *ex parte* application a justice of the peace is satisfied by information on oath that

- (a) the conditions for entry described in subsection (1) exist in relation to a dwelling-place,
- (b) entry to the dwelling-place is necessary for any purpose in relation to the administration of this Act or the regulations, and
- (c) entry to the dwelling-place has been refused or there are reasonable grounds for believing that entry will be refused,

the justice may issue a warrant authorizing an officer to enter the dwelling-place subject to any conditions that may be specified in the warrant.

**Search without warrant**

**15** For the purpose of ensuring compliance with this Act and the regulations, an officer may exercise the powers of search and seizure provided for in section 487 of the *Criminal Code* without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be feasible to obtain a warrant.

**Custody of things seized**

**16(1)** An officer who detains or seizes a thing under section 13, 14 or 15 or under a warrant issued under the *Criminal Code* may retain custody of the thing or transfer custody of it to such person as the officer may designate.

**Perishable things**

(2) Where a thing referred to in subsection (1) is perishable, the officer may dispose of it or destroy it and any proceeds realized from its disposition shall be paid to the lawful owner of the thing unless proceedings under this Act are instituted within ninety days after the detention or seizure.

**Abandonment**

**17** The owner, importer or exporter of any thing detained or seized under this Act may abandon the thing to Her Majesty in right of Canada.

**Notice to remove**

**18(1)** Where an officer believes, on reasonable grounds, that any thing is being or has been imported into Canada in contravention of this Act or the regulations, the officer may, whether or not the thing is detained or seized, require, by delivering a notice in the prescribed form and manner, that it be removed from Canada in accordance with the regulations.

**Deadline for removal**

(2) Where a notice to remove a thing is delivered, the removal shall be carried out within the period specified in the notice or, if no such period is specified in the notice, within ninety days after its delivery.

**c. W-8.5** WILD ANIMAL AND PLANT PROTECTION AND REGULATION  
OF INTERNATIONAL AND INTERPROVINCIAL TRADE

**Forfeiture**

**19(1)** Where a person is convicted of an offence under this Act, the convicting court may, in addition to any punishment imposed, order that any thing detained or seized, or any proceeds realized from its disposition, be forfeited to Her Majesty.

**Forfeiture on consent**

(2) Where the owner of a thing detained or seized under this Act consents to its forfeiture, it is thereupon forfeited to Her Majesty.

**Automatic forfeiture**

(3) Where a thing is detained or seized under this Act, it, or the proceeds realized from its disposition, is forfeited to Her Majesty

- (a) in the case of a thing that has been detained under section 13, if the thing has not been removed within the period prescribed by the regulations;
- (b) in the case of a thing that has been seized, if ownership of the thing cannot be ascertained within thirty days after the seizure; and
- (c) in the case of a thing that is the subject of a notice under section 18, if the thing has not been removed from Canada in compliance with that section.

**Return of thing where no forfeiture ordered**

(4) Where the convicting court does not order the forfeiture of a detained or seized thing under subsection (1), the thing, or the proceeds realized from its disposition, shall be returned to the lawful owner of the thing or the person in whose possession the thing was at the time of the detention or seizure.

**Exception**

(5) Where a person is convicted of an offence under this Act, any thing seized or any proceeds realized from its disposition, may be retained until the fine is paid or the thing may be sold under execution in satisfaction of the fine and the proceeds applied, in whole or in part, in payment of the fine.

**Disposition by Minister**

**20(1)** Where a sample has been taken pursuant to paragraph 14(1)(b) or a thing has been forfeited or abandoned under this Act, it shall be dealt with and disposed of as the Minister may direct.

**Costs**

(2) The importer or exporter, as the case may be, and the owner of any thing detained, seized, abandoned or forfeited under this Act are jointly and severally liable for all the costs of inspection, removal, detention, seizure, abandonment, forfeiture or disposition incurred by Her Majesty that exceed the proceeds realized from the disposition of the thing under this Act.

**Regulations**

**21(1)** The Governor in Council may make regulations for carrying out the purposes of this Act, including regulations

- (a) respecting the issuance, renewal, revocation and suspension of permits and the circumstances in which persons may be exempted from holding such permits;
- (b) respecting the exemption of animals and plants, and parts and derivatives of animals and plants, from the operation of any provision of this Act;



- (c) amending the definitions “**animal**” and “**plant**”
  - (i) for the purposes of subsection 6(1),
  - (ii) for the purposes of subsection 6(2),
  - (iii) for the purposes of subsection 6(3),
    - (A) in order to protect species that are subject to the legislative authority of Parliament, or
    - (B) at the request of the minister who is responsible for the protection of wild animal or plant species of the government of the province into which the animal or plant is to be transported, where that minister is of the opinion that the transport would be harmful to the environment of that province,
  - (iv) for the purposes of section 7, in order to protect species of animals and plants in a province, other than those species that are subject to the legislative authority of Parliament, at the request of the minister who is responsible for the protection of wild animal or plant species of the government of the province, and
  - (v) for the purposes of section 8;
- (d) specifying the places and times at which, and the manner in which, animals and plants, classes of animals and plants and parts and derivatives of animals and plants may be imported into Canada and exported from Canada;
- (e) respecting the marking of animals and plants, and parts and derivatives of animals and plants, and the packaging for animals, plants and parts and derivatives of animals and plants for importation into or exportation from Canada or for transportation from one province to another province;
- (f) prescribing the documents to be kept by persons mentioned in section 9 and the manner of keeping the documents and the period for which they are to be kept;
- (g) specifying the terms and conditions under which animals and plants, and parts and derivatives of animals and plants, are to be removed from Canada under section 18;
- (h) prescribing the manner in which the proceeds resulting from the payment of fines or the execution of orders under this Act shall be distributed;
- (i) prescribing the fees or charges to be paid in connection with the administration of this Act and the terms and conditions of paying such fees and charges; and
- (j) generally to implement the Convention.

**Idem**

- (2) The Governor in Council shall make regulations specifying the animals and plants that are listed as “fauna” and “flora”, respectively, in an appendix to the Convention and shall, not later than ninety days after any change to a list in an appendix to the Convention, amend the regulations to reflect that change.

**c. W-8.5** WILD ANIMAL AND PLANT PROTECTION AND REGULATION  
OF INTERNATIONAL AND INTERPROVINCIAL TRADE

**Order**

**21.1(1)** The Governor in Council may, on the recommendation of the Minister, by order, amend the definition “animal” or “plant” in section 2 for the purposes of subsection 6(2).

**Recommendation**

(2) If the Minister is of the opinion that the import of any specimen, living or dead, would be harmful to Canadian ecosystems or to any species in Canada and that urgent action is needed, the Minister may recommend that an order be made under subsection (1).

**Duration of amendment**

(3) The amendment made by the order applies for the period specified in the order, which period may not be longer than one year from the day the order is made.

**Exemption**

(4) The order is exempt from the application of section 3 of the *Statutory Instruments Act*.

2002, c. 29, s. 141.

## OFFENCE AND PUNISHMENT

**Offence and punishment**

**22(1)** Every person who contravenes a provision of this Act or the regulations

- (a) is guilty of an offence punishable on summary conviction and is liable
  - (i) in the case of a person that is a corporation, to a fine not exceeding fifty thousand dollars, and
  - (ii) in the case of a person other than a person referred to in subparagraph (i), to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding six months, or to both; or
- (b) is guilty of an indictable offence and is liable
  - (i) in the case of a person that is a corporation, to a fine not exceeding three hundred thousand dollars, and
  - (ii) in the case of a person other than a person referred to in subparagraph (i), to a fine not exceeding one hundred and fifty thousand dollars or to imprisonment for a term not exceeding five years, or to both.

**Subsequent offences**

(2) Where a person is convicted of an offence under this Act a second or subsequent time, the amount of the fine for the subsequent offence may, notwithstanding subsection (1), be double the amount set out in that subsection.

**Fines cumulation**

(3) Notwithstanding subsection (1), any fine imposed on a conviction for an offence involving more than one animal or plant, or part or derivative of an animal or plant, may be computed in respect of each animal, plant, part or derivative as though it had been the subject of a separate complaint or information and the fine imposed shall then be the sum payable in the aggregate as a result of that computation.

**Continuing offence**

(4) Where an offence under this Act is committed or continued on more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.

**Additional fine**

(5) Where a person has been convicted of an offence under this Act and the court is satisfied that as a result of the commission of the offence monetary benefits accrued to the person, the court may order the person to pay, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act, an additional fine in an amount equal to the court's estimation of the amount of those monetary benefits.

**Orders of court**

(6) Where a person is convicted of an offence under this Act, in addition to any punishment imposed, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing any one or more of the following prohibitions, directions or requirements:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the person to take any action the court considers appropriate to remedy or avoid any harm to any animal or plant to which any provision of this Act applies that resulted or may result from the commission of the offence;
- (c) directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence;
- (d) directing the person to pay the Minister or the government of a province an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the Minister or that government as a result of the commission of the offence;
- (e) directing the person to perform community service in accordance with any reasonable conditions that may be specified in the order;
- (f) directing the person to post a bond or pay into court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement mentioned in this subsection;
- (g) directing the person to submit to the Minister, on application by the Minister within three years after the date of the conviction, any information respecting the activities of the person that the court considers appropriate in the circumstances; and
- (h) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences under this Act.

**c. W-8.5** WILD ANIMAL AND PLANT PROTECTION AND REGULATION  
OF INTERNATIONAL AND INTERPROVINCIAL TRADE

**Suspended sentence**

(7) Where a person is convicted of an offence under this Act and the court suspends the passing of sentence pursuant to paragraph 731(1)(a) of the *Criminal Code*, the court may, in addition to any probation order made under that paragraph, make an order directing the person to comply with any prohibition, direction or requirement mentioned in subsection (6).

**Imposition of sentence**

(8) Where a person whose sentence has been suspended fails to comply with an order made under subsection (7) or is convicted, within three years after the day on which the order was made, of another offence under this Act, the court may, on the application of the prosecution, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

**Limitation period**

(9) Proceedings by way of summary conviction in respect of an offence under this Act may be instituted at any time within, but not later than, two years after the day on which the Minister became aware of the subject-matter of the proceedings.

**Minister's certificate**

(10) A document purporting to have been issued by the Minister, certifying the day on which the Minister became aware of the subject-matter of any proceedings, shall be received in evidence and, in the absence of any evidence to the contrary, shall be considered as proof of that fact without proof of the signature or the official character of the person appearing to have signed it.

**Private prosecutions**

(11) Any person who has attained the age of majority may, where the Attorney General of Canada does not intervene, institute proceedings to which this Act applies.

1992, c. 52, s. 22; 1995, c. 22, s. 18.

## TICKETABLE OFFENCES

**Procedure**

**23(1)** In addition to the procedures set out in the *Criminal Code* for commencing a proceeding, proceedings in respect of any prescribed offence may be commenced by an officer

- (a) completing a ticket that consists of a summons portion and an information portion;
- (b) delivering the summons portion of the ticket to the accused or mailing it to the accused at the accused's latest known address; and
- (c) filing the information portion of the ticket with a court of competent jurisdiction before or as soon as practicable after the summons portion has been delivered or mailed.

**Content of ticket**

(2) The summons and information portions of a ticket shall

- (a) set out a description of the offence and the time and place of its alleged commission;

- (b) include a statement, signed by the officer who completes the ticket, that the officer has reasonable grounds to believe that the accused committed the offence;
- (c) set out the amount of the prescribed fine for the offence and the manner in which and period within which it may be paid;
- (d) include a statement that if the accused pays the fine within the period set out in the ticket, a conviction will be entered and recorded against the accused; and
- (e) include a statement that if the accused wishes to plead not guilty or for any other reason fails to pay the fine within the period set out in the ticket, the accused must appear in the court and at the time set out in the ticket.

**Notice of forfeiture**

- (3) Where any thing is seized under this Act and proceedings relating to the thing are commenced by way of the ticketing procedure described in subsection (1), the officer who completes the ticket shall give written notice to the accused that if the accused pays the prescribed fine within the period set out in the ticket, the thing, or any proceeds realized from its disposition, shall thereupon be forfeited to Her Majesty.

**Consequences of payment**

- (4) Where an accused to whom the summons portion of a ticket is delivered or mailed pays the prescribed fine within the period set out in the ticket,
  - (a) the payment constitutes a plea of guilty to the offence described in the ticket and a conviction shall be entered against the accused and no further action shall be taken against the accused in respect of that offence; and
  - (b) any thing seized from the accused under this Act relating to the offence described in the ticket, or any proceeds realized from its disposition, are forfeited to Her Majesty and may be disposed of as the Minister directs.

**Regulations**

- (5) The Governor in Council may make regulations prescribing
  - (a) offences under this Act to which this section applies and the manner in which those offences may be described in tickets; and
  - (b) the amount of the fine for a prescribed offence, which amount shall not exceed one thousand dollars.

GENERAL

**Officers, etc., of corporations**

- 24 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to or acquiesced or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

**c. W-8.5** WILD ANIMAL AND PLANT PROTECTION AND REGULATION  
OF INTERNATIONAL AND INTERPROVINCIAL TRADE

**Offences by employees or agents**

**25** In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused and that the accused exercised all due diligence to prevent its commission.

**Venue**

**26** A prosecution for an offence under this Act may be instituted, heard and determined in the place where the offence was committed or the subject-matter of the prosecution arose, where the accused was apprehended or where the accused happens to be, or is carrying on business.

**Unpaid fees or charges**

**27** Where any fee or charge imposed under this Act is unpaid, the fee or charge, as the case may be, may be recovered from the person on whom it was imposed as a debt due to Her Majesty.

**Report to Parliament**

**28** The Minister shall annually prepare a report with respect to the administration of this Act during the preceding calendar year and shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days that the House is sitting after its completion.

REPEAL

**29** [Repeal]

COMING INTO FORCE

**Coming into force**

**\*30** This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

\*[Note: Act in force May 14, 1996, *see* SI/96-41.]

AMENDMENT NOT IN FORCE

— 1992, c. 47, s. 85:

**Transitional re Bill C-42**

**85** If Bill C-42, introduced in the third session of the thirty-fourth Parliament and entitled *An Act respecting the protection of certain species of wild animals and plants and the regulation of international and interprovincial trade in those species*, is assented to, then, on the later of a day to be fixed by order of the Governor in Council under this section and the day on which section 23 of that Act comes into force, the heading preceding section 23 and section 23 of that Act are repealed.