

## The new *Canada Consumer Product Safety Act* has come into force.

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The *Canada Consumer Product Safety Act* (“**CCPSA**” or “**Act**”) adopted by the federal government came into force on June 20, 2011 and applies across Canada. It is designed to protect the public against the dangers of certain products to human health and safety.

By passing the Act, the Canadian government aims to make manufacturers, importers, distributors and wholesalers accountable for any material, object, label or document used for consumer products at any time, from production to the market. Manufacturers, importers, agents and retailers as well as anyone else involved in the distribution chain will be required to comply with the Act. The products covered and those which are excluded are:

Covered products	Excluded products
<ul style="list-style-type: none"><li>• Toys</li><li>• Household products</li><li>• Sports items</li><li>• <b>Any other product which is not excluded</b></li></ul>	<ul style="list-style-type: none"><li>• Cosmetics</li><li>• Motor vehicles (and their parts)</li><li>• Food (covered by the <i>Food and Drug Act</i>)</li><li>• Natural health products</li><li>• Fertilizers</li><li>• Animals</li><li>• Firearms and explosives</li><li>• Other regulated products</li></ul>

### Prohibitions

Under the Act, it is prohibited to package or label a product in a manner which may create a false or misleading impression regarding its safety. It is also prohibited to manufacture, import, sell or advertise a product presenting a danger which could cause death or serious injury.

### Control standards

Health Canada, which enforces the Act, has several powers. In particular, it may order any person involved in the manufacturing or marketing of the product to conduct tests or studies and/or to compile and provide it with any information or safety data Health Canada considers necessary.

The Act creates a new record-keeping obligation. Henceforth any document allowing a product to be traced must be kept for six years.

### Inspection

Health Canada may enter the premises of any business if there are reasonable grounds to believe that a product or any of its elements may be dangerous. During the visit, Health Canada may have access to any document, product, place, technological element or person. Health Canada may seize any product covered by the Act for the period it considers necessary.

### Disclosure requirement

If a person learns that the product he distributes, imports or manufactures presents a danger to human life or health, he must report it to Health Canada within two days from which he becomes aware of the danger. He must also provide Health Canada with a written report containing information about the incident within ten days and communicate it to any other person involved in the manufacturing, distribution and sale of the product.

#### Recall and other measures

Health Canada may order any person to recall products and notify any party involved in the manufacturing, distribution and sale of a product within the prescribed times and according to the prescribed terms.

It may also order that the manufacturing or distribution of the products be stopped and that measures be taken to remedy the danger the product poses.

#### Penalties

The penalties for an offence under the Act may be criminal or statutory up to five million dollars (\$5,000,000) and/or two years' imprisonment. The directors may be held personally liable.

You should therefore have your contracts reviewed, your purchase orders and the warnings/disclaims on your products as well as your internal procedures to ensure they comply with the Act. If you have any questions or if you require our services, contact Mtre. Diane Bellavance or Victoria Tchistiakova at 514-845-3533 or [dbellavance@morencyavocats.com](mailto:dbellavance@morencyavocats.com).