

# Torys on Food and Drug Regulatory

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## Canada Consumer Product Safety Act Aims to Strengthen Product Safety Laws

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The *Canada Consumer Product Safety Act* (CCPSA)<sup>1</sup> will come into force on June 20, 2011, after receiving royal assent on December 14, 2010. It is aimed at preventing and dealing with the dangers that consumer products pose to human health or safety, as well as modernizing and strengthening product safety laws to further protect the health and safety of Canadians.

### Scope of the CCPSA

The CCPSA defines a “consumer product” as a “product, including its components, parts or accessories, that may reasonably be expected to be obtained by an individual to be used for non-commercial purposes, including for domestic, recreational and sports purposes, and includes its packaging.” As detailed by the regulations promulgated under the CCPSA, examples of consumer products within the scope of the Act include surface coating materials, children’s sleepwear, toys, candles, face protectors for ice hockey and box lacrosse players, textiles, asbestos products and consumer chemicals and containers. The CCPSA does not apply to products regulated by the *Food and Drugs Act* and *Regulations*, such as natural health products, food, drugs, cosmetics and medical devices. Nor does it apply to products listed in Schedule 1 of the CCPSA, including motor vehicles, explosives, feeds and fertilizers, which are already regulated by other legislation. The CCPSA’s scope focuses on consumer products that pose an unreasonable hazard to human health or safety that have, for the most part, previously been regulated by the *Hazardous Products Act* (HPA).<sup>2</sup> The CCPSA will replace Part I and Schedule I of the HPA,<sup>3</sup> and introduce a new legislative regime.<sup>4</sup>

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<sup>1</sup> *Canada Consumer Product Safety Act*, S.C. 2010, c. 21.

<sup>2</sup> *Hazardous Products Act*, R.S.C. 1985, c. H-3.

<sup>3</sup> Part II and Part III of the HPA are not affected by the coming into force of the CCPSA. Part II of the HPA deals with the *Controlled Products Regulations* and *Ingredient Disclosure List*. They set out the supplier label and material safety data sheet requirements for the Workplace Hazardous Materials Information System in Canada. Part III of the HPA deals with administration and enforcement.

<sup>4</sup> Health Canada has published an information bulletin titled “Consumer Product Prohibitions and Regulations under the Proposed *Canada Consumer Product Safety Act*,” which describes the transition of regulations under the HPA to the current CCPSA regime. The bulletin is available [here](#).

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## Key Provisions of the CCPSA

The CCPSA prohibits the manufacture, importation and advertising or sale of prohibited consumer products, consumer products that are a danger to human health and safety, and consumer products that are the subject of recall orders made under the CCPSA. It also prohibits false, misleading or deceptive packaging and labelling of consumer products.

One important aspect of the new legislation is its mandatory recall scheme, which allows Health Canada to order recalls if consumer products are found, on reasonable grounds, to be a danger to human health or safety. This gives Health Canada a significant new enforcement tool when compared with the existing consumer product safety regime, under which recalls are issued voluntarily by manufacturers.

In addition, the CCPSA creates new mandatory incident-reporting and record-keeping requirements for manufacturers, importers, advertisers and sellers of consumer products for commercial purposes. More specifically, manufacturers or importers of consumer products must notify the Minister of Health of incidents that can “reasonably be expected to result in an individual’s death or in serious adverse effects on their health” within 10 days of becoming aware of the incident. Retailers are also now required to keep records for six years, listing the name and address of the person from whom they obtained consumer products and the location where and the period during which the products were sold.

## Enforcement of the CCPSA

The CCPSA contemplates that inspectors will administer and enforce the legislation and grants these inspectors broad powers to examine and test consumer products, examine documentation and seize and detain consumer products. The legislation also creates significant fines and penalties for contravening its provisions. For indictable offences, a fine of up to \$5 million or a prison sentence of up to two years may be imposed. This is an increase from the indictable offence fines imposed under the HPA, set at \$1 million. As an alternative to criminal prosecution, an administrative monetary penalty scheme has also been introduced under the CCPSA.

As the CCPSA’s date of coming into force quickly approaches, consumer product manufacturers should monitor Health Canada’s website for any guidelines or departmental policies that might assist in implementing and enforcing the upcoming consumer safety product framework.

A copy of the CCPSA can be found [here](#). 