Safe Food for Canadians Regulations Change Compliance Landscape for Food Businesses

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The *Safe Food for Canadians Regulations* (SFCR) under the *Safe Food for Canadians Act* (SFCA) came into force on January 15, 2019. These new regulations modernize Canada's food safety regulatory framework by consolidating 14 existing regulations into a single group and were the key result from Canada's Food and Consumer Safety Action Plan. The SFCA, alongside the *Food and Drugs Act,* provide the complete federal legislative scheme for the regulation of food safety in Canada.

The regulations

The SFCA applies to imported, exported or inter-provincially traded food for human consumption and to the slaughter of animals for meat that will be exported or inter-provincially traded. There are a few exceptions to the SFCA, such as airline food for use by crews and passengers, and for the export of foods that meet different requirements from those listed under the SFCR if prepared by a licence holder under sanitary conditions. The SFCA also provides for ministerial exemptions to alleviate a supply shortage or to test market a food in certain circumstances.

In addition to normative regulatory requirements, SFCR incorporates additional commodity-specific requirements (dairy products, eggs, processed egg products, fish, fresh fruits/vegetables and meat products/food animals) regarding the manufacture, import, harvesting, packaging, labelling and grade provisions.

The SFCA replaces the former food safety legal regime administered by the Canadian Food Inspection Agency (CFIA). The SFCA's regulatory emphasis is on reduced administrative burdens and greater efficiencies by ensuring consistent rule making across different products and industries. The CFIA will continue to verify and enforce food safety compliance through its established inspection and surveillance activities and will assist the food industry in maintaining an informed compliance regime. The CFIA will also continue its longstanding co-operation with provincial and territorial food safety regulatory authorities to verify compliance with the *Act* and its regulations.

An important compliance development is that as of January 15, 2019, the CFIA's administrative monetary penalty (AMPs) system has been expanded to cover violations of the SFCR. This means restaurants, importers and exporters now face potential AMPs

for food product-related violations. AMPs are informed compliance based enforcement tools available to the CFIA under its Compliance and Enforcement Policy.

How does the SFCR affect your business?

The SFCR regulate the Canadian food industry in three ways. Prepared foods for import, export and domestic consumption must:

1. Meet safety requirements;
2. Meet compositional and grade requirements; and
3. Meet labelling and advertising requirements.

Canadian businesses in the food industry must familiarize themselves with the SFCR to ensure compliance with the new online licensing regime and ensuring their business meets the applicable traceability requirements. They must also update their existing compliance plans or draft a new preventive control plan. Businesses are at risk for AMPs if they fail to comply with the SFCR.

Businesses must take note that certain requirements will come into force over the following 12 to 30 months based on the subject food, activity, and the size of the food business. Timelines are available for specific food industries which highlight when the requirements regarding licensing, preventive control plans, preventive controls and traceability must be in place.

While compliance with the SFCR should be the main focus of Canadian businesses, they should also carefully analyze the SFCR's potential effects on supply chains, because suppliers and third parties will likely also make making changes to their operations.

Businesses should consider three key areas for compliance that will likely increase costs and require further controls: licensing, traceability and preventive controls.

Licensing

Under the SFCR, the CFIA established a new online licensing system where food businesses (food importers and businesses that manufacture, process, treat, preserve, grade, package or label food transported across provincial borders) may apply for their applicable licences, replacing the current CFIA system for registered establishments. The CFIA created a website to assist businesses in determining whether a licence is required, an online portal for business to submit and manage their licence applications and a licence search tool for the general public.

Traceability

Importers, producers, processors and others will be required to maintain documents that permit food to be uniquely identified and traced one step forward and one step back. Businesses selling food at retail (*e.g.,* grocery stores and bakeries) are exempt from the requirement to trace one step forward to consumers purchasing the food. Restaurants and other "similar enterprises" that sell food as a meal or snack are exempt from these requirements but should note that their suppliers will be required to track the restaurants

to which they are supplying food so that it can be readily and accurately identified in the event of a recall or investigation.

Preventive Controls

The role of preventive controls under the new regime is to control risk to food and the humane treatment of animals for slaughter. New requirements apply to “operators”, which include food businesses licensed under the SFCR that govern the identification and management of biological, chemical and physical hazards, the maintenance and operation of an establishment, and the investigation, notification, complaints and recall procedures. There is also a new requirement to maintain a preventive control plan (PCP), a written document to outline the risks to a businesses’ food, the treatment of animals related to food production, and information regarding packaging, labelling, grading, and standards of identity. Plans based on prior CFIA program requirements (*i.e.* a Quality Management Program, a Food Safety Enhancement Program, Quality Management for Importers Plan or an Export Certification Control Program) must be adjusted to meet the new regulations.

Repeal of regulations

Now that the SFCR is in force, regulations it has replaced have been repealed. A list of these regulations is as follows:

- Dairy Product Regulations
- Egg Regulations
- Fresh Fruit and Vegetable Regulations
- Honey Regulations
- Icewine Regulations
- Licensing and Arbitration Regulations
- Livestock and Poultry Carcass Grading Regulations
- Organic Products Regulations
- Maple Products Regulations
- Processed Egg Regulations
- Processed Products Regulations
- Consumer Packaging and Labelling Regulations (as it relates to food)
- *Fish Inspection Act Regulations*
- Meat Inspection Regulations, 1990

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