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Ontario
CHAPTER 517

Upholstered and Stuffed Articles Act

1.—(1) In this Act, Interpretation

(a) "business premises" does not include a dwelling;

(b) "Director" means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;

(c) "dwelling" means any premises or any part thereof occupied exclusively as living accommodation;

(d) "manufacturer" means a person who inserts and covers stuffing in any article or part thereof in the manufacture of an upholstered or stuffed article or any part thereof;

(e) "Minister" means the Minister of Consumer and Commercial Relations;

(f) "Ministry" means the Ministry of Consumer and Commercial Relations;

(g) "person" means an individual, an association of individuals, a partnership or a corporation and includes an agent of any of them;

(h) "prescribed" means prescribed by the regulations;

(i) "registered" means registered under this Act;

(j) "Registrar" means the Registrar of Upholstered and Stuffed Articles;

(k) "regulations" means the regulations made under this Act;

(l) "renovator" means a person who renovates, repairs or alters an upholstered or stuffed article;

(m) "second-hand article" means an upholstered or stuffed article that has been purchased from a
retailer but does not include an upholstered or stuffed article returned to the retailer without use and with the original label attached;

(n) "second-hand material" means material that has been used other than in a manufacturing process;

(o) "stuffing" means any material used for padding, filling or cushioning, that is meant to be enclosed by a covering;

(p) "Tribunal" means The Commercial Registration Appeal Tribunal under the Ministry of Consumer and Commercial Relations Act;

(q) "upholstered or stuffed article" means an article any part of which contains stuffing. R.S.O. 1970, c. 474, s. 1 (1); 1971, c. 50, s. 84 (1); 1972, c. 1, ss. 23 (5), 57.

(2) For the purposes of this Act and the regulations, an upholstered or stuffed article, other than one received for renovation and labelled under subsection 13 (3) or section 18, shall be deemed to be offered for sale while it is in the possession of or on the premises of a person carrying on business as a manufacturer, wholesaler, wholesaler-distributor or retailer. R.S.O. 1970, c. 474, s. 1 (2).

Application 2. Sections 4, 13, 14 and 16 do not apply in respect of the manufacture, labelling and sale,

(a) of shoulder pads and trimmings in articles of clothing;

(b) of upholstery or articles manufactured as part of a vehicle or an aeroplane; or

(c) of life-saving equipment that bears a stamp or label of approval of the Department of Transport of the Government of Canada. R.S.O. 1970, c. 474, s. 2.

Registrar 3.—(1) There shall be a Registrar of Upholstered and Stuffed Articles who shall be appointed by the Lieutenant Governor in Council.

Duties of Registrar (2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. R.S.O. 1970, c. 474, s. 3.
4. No person shall carry on business as a manufacturer or as a renovator unless he is registered under this Act. R.S.O. 1970, c. 474, s. 4.

5. — (1) Subject to subsection (2), the Registrar shall grant registration to any person who applies therefor in the prescribed form and pays the prescribed fee. R.S.O. 1970, c. 474, s. 5 (1).

(2) Subject to section 9, the Registrar may refuse to grant registration to a person who otherwise has complied with the requirements of subsection (1) where,

(a) the applicant;

(b) a member of the applicant, where the applicant is an association or partnership; or

(c) an officer or director of the applicant, where the applicant is a corporation,

was a registrant, or member, officer or director of a registrant, whose registration has been cancelled, unless the Registrar is satisfied that material circumstances have changed. R.S.O. 1970, c. 474, s. 5 (2); 1971, c. 50, s. 84 (2).

6. Every registrant shall within five days after the event notify the Registrar in writing of,

(a) any change in his address for service; and

(b) any change in the officers in the case of a corporation or of the members in the case of an association of individuals or a partnership. R.S.O. 1970, c. 474, s. 6.

7. — (1) Where the Registrar receives a complaint alleging the non-compliance of a registrant with this Act or the regulations and so requests in writing, the registrant shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires.

(2) The request under subsection (1) shall indicate the general nature of the inquiry involved. R.S.O. 1970, c. 474, s. 7 (1, 2).

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by him may enter at any reasonable time the business premises of such person and make an inspection in relation to the complaint. 1971, c. 50, s. 84 (3).
8. Where the Registrar has reasonable and probable grounds to believe that any person is acting as a manufacturer or renovator while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. R.S.O. 1970, c. 474, s. 8.

9.—(1) Upon an inspection under section 7 or 8, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 474, s. 9 (1); 1971, c. 50, s. 84 (4).

(2) Any copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 474, s. 9 (2).

10. Every person employed in the administration of this Act, including any person making an inspection under section 7, 8, 9 or 19 shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates. 1971, c. 50, s. 84 (5).
11. Subject to section 12, the Registrar may suspend or revoke a registration where the registrant has contravened this Act or the regulations and has refused to comply with this Act or the regulations after being requested to do so by the Registrar in writing. 1971, c. 50, s. 84 (6), part.

12.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing.

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

(8) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the Ministry of Consumer and Commercial Relations Act, the order takes effect immediately, but the Tribunal may grant a stay until
Labelling: on manufacture and renovation

13.—(1) Every manufacturer and every renovator shall, immediately upon its manufacture or receipt for renovation, affix to a conspicuous part of the main body of the upholstered or stuffed article a label in the prescribed form.

(2) Every dealer in second-hand articles shall, immediately upon their receipt, affix to a conspicuous part of each second-hand article in his possession, a label in the prescribed form.

(3) Every person who receives an upholstered or stuffed article for the purpose of renovation shall, where such work is to be performed by someone other than that person or his employee, immediately upon its receipt, affix to a conspicuous part of the main body of the article a label in the prescribed form. R.S.O. 1970, c. 474, s. 25.

Sale

14.—(1) No person shall sell or offer for sale, whether by auction or otherwise, an upholstered or stuffed article that does not bear a label complying with the regulations and securely affixed to a conspicuous part of the main body of the article.

(2) Subsection (1) does not apply to the sale or offering for sale by a householder of his own household articles on his own premises. R.S.O. 1970, c. 474, s. 26.

Removal of labels

15. No person shall remove, deface or alter or attempt to remove, deface or alter any label affixed to an article before the article to which it is affixed is sold by retail and delivered or in the case of renovations is returned to the owner. R.S.O. 1970, c. 474, s. 27.

Sale of articles of unregistered manufacturer

16. No person shall sell or offer for sale, whether by auction or otherwise, an upholstered or stuffed article, other than a second-hand article, that has not been manufactured by a manufacturer who is registered under this Act, or manufactured in a province designated by the regulations. R.S.O. 1970, c. 474, s. 28.

Second-hand material

17.—(1) No person shall use second-hand material as stuffing in the manufacture of an upholstered or stuffed article or add second-hand material as stuffing in its renovation.
(2) No person shall use material that contains vermin or is unclean in the manufacture or renovation of any upholstered or stuffed article.

(3) No person shall use feathers or feather products in the manufacture or renovation of an upholstered or stuffed article unless the feathers or feather products have first been processed in the manner prescribed by the regulations.

R.S.O. 1970, c. 474, s. 29.

18.—(1) No person shall sell or offer for sale an upholstered or stuffed article that,

(a) has been in contact with a person suffering from a communicable disease;

(b) is so soiled or in such condition as is likely to affect adversely the health of any person; or

(c) contains vermin,

unless the article has been sterilized or disinfected in the manner prescribed by the regulations.

(2) Where an upholstered or stuffed article to which subsection (1) applies is offered for sale by a dealer and the Registrar or the local medical officer of health believes on reasonable and probable grounds that the article can not be satisfactorily treated and endangers public health, the Registrar or local medical officer of health may, by order in writing, require that the article be destroyed. R.S.O. 1970, c. 474, s. 30 (1, 2).

(3) Where the Registrar or local medical officer of health orders that an article be destroyed, he shall serve personally notice of such order, together with written reasons therefor, on the dealer informing him that he has a right to appeal to the Tribunal if he gives notice of appeal within five days after service of the notice by the Registrar or local medical officer of health, and the dealer may, within such time, file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

(4) Pending an appeal, the appellant shall not dispose of the article forming the subject-matter of an appeal.

(5) Where a dealer within five days after service on him of a notice by the Registrar or local medical officer of health under subsection (3),
(a) does not file a notice of appeal requiring a hearing by the Tribunal, the dealer shall forthwith carry out the order of the Registrar or local medical officer of health; or

(b) files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and, after the hearing, may by order confirm, revoke or modify the order appealed from and the appellant shall carry out the order of the Tribunal.

(6) The Registrar or the local medical officer of health, the dealer who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.

(7) Section 11 of the *Ministry of Consumer and Commercial Relations Act* does not apply to proceedings before the Tribunal under this section. 1971, c. 50, s. 84 (8); 1972, c. 1, s. 23 (5).

19.—(1) The Registrar or any person designated in writing by him may at all reasonable times enter and inspect,

(a) the business premises where upholstered or stuffed articles are manufactured or renovated;

(b) the business premises where materials for stuffing are processed;

(c) the business premises where upholstered or stuffed articles are offered for sale,

and such inspection may include the examination of the stuffing in upholstered or stuffed articles by means of reasonably representative sampling. R.S.O. 1970, c. 474, s. 31 (1); 1971, c. 50, s. 84 (9).

(2) Where, upon an inspection under subsection (1), the person making the inspection finds that any upholstered or stuffed article is not labelled in accordance with this Act or the regulations, he may affix thereto an off-sale label in the prescribed form, and shall remove the off-sale labels when the labelling is corrected.

(3) Where, upon an inspection under subsection (1), the person making the inspection has reasonable and probable grounds for believing that stuffing does not comply with section 17 or 18, he,
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(a) may take upholstered or stuffed articles or stuffing for the purposes of testing;

(b) may affix off-sale labels to the articles or stuffing concerned; and

(c) shall have the specimens taken tested with all reasonable dispatch. R.S.O. 1970, c. 474, s. 31 (2, 3).

20.—(1) Where an off-sale label is affixed to an article under section 19, the person affected may within five days thereafter file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

(2) Where a person affected within five days after the affixing of an off-sale label under subsection (1) files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and may by order confirm the affixing of the off-sale label or direct the Registrar or person designated in writing by him forthwith to remove the off-sale label.

(3) The Registrar or person designated in writing by him, the person affected who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.

(4) Section 11 of the Ministry of Consumer and Commercial Relations Act does not apply to proceedings under this section. 1971, c. 50, s. 84 (10); 1972, c. 1, s. 23 (5).

21.—(1) The Registrar or a person designated in writing by him shall remove an off-sale label,

(a) that has been affixed under subsection 19 (2), when the labelling is corrected; or

(b) that has been affixed under subsection 19 (3), when the tests indicate that sections 17 and 18 do not apply or when those sections have been complied with; or

(c) that has been ordered to be removed by the Tribunal under section 20. R.S.O. 1970, c. 474, s. 32 (1); 1971, c. 50, s. 84 (11).

(2) No person, other than the Registrar or any person designated in writing by him, shall remove an off-sale label that has been affixed under section 19. R.S.O. 1970, c. 474, s. 32 (2).
22.—(1) Subject to subsection (2), no person shall sell, offer to sell, exchange, lease or remove from the premises where it is located, any article placed off-sale under section 19, and such article shall be produced by the person having possession of the article on demand of the Registrar or any person designated in writing by him at any time until the off-sale label is removed by a person authorized by section 21.

(2) The person having possession of an off-sale article may, with the written consent of the Registrar or any person designated in writing by him, return the off-sale article to his supplier. R.S.O. 1970, c. 474, s. 33.

23. Every employer shall take every precaution, reasonable in the circumstances, to ensure that his employees do not contravene this Act or the regulations or any order made under this Act. R.S.O. 1970, c. 474, s. 34.

24.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. R.S.O. 1970, c. 474, s. 35 (1); 1972, c. 1, s. 1.

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 84 (12).

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 474, s. 35 (3).

25.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.
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(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 474, s. 36.

26.—(1) Except where otherwise provided, every person who,

(a) contravenes this Act or the regulations;

(b) fails to comply with any order made under this Act; or

(c) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act,
is guilty of an offence and on conviction is liable to a fine of not more than $500 or, if such person is a corporation, to a fine of not more than $2,000.

(2) Where a corporation is guilty of an offence under subsection (1), every director or officer who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than $500.

(3) No proceeding under clause (1) (a) or (b) shall be instituted more than two years after the time when the subject-matter of the proceeding arose.

(4) No proceeding under clause (1) (c) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. R.S.O. 1970, c. 474, s. 37.

27. Any person who obstructs, hinders, delays or prevents any person authorized by this Act to enter and inspect any premises or examine any stuffed article is guilty of an offence and on conviction is liable to a fine of not more than $250. R.S.O. 1970, c. 474, s. 38.

28. A statement as to,

(a) the registration or non-registration of any person;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or
any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material, purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 474, s. 39.

Regulations 29. The Lieutenant Governor in Council may make regulations,

(a) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(b) requiring the payment of fees for any matter connected with registration and prescribing the amounts thereof;

(c) prescribing the form of labels required or authorized by this Act to be affixed to upholstered and stuffed articles, or any class thereof, and adopting labels affixed under the laws of any other province designated by the regulations;

(d) prescribing procedures for the taking of samples and the attaching and removal of off-sale labels;

(e) designating provinces for the purposes of section 16;

(f) prescribing the processing that shall be used for feathers and feather products used as stuffing;

(g) prescribing processes for sterilizing and disinfecting for the purposes of section 18;

(h) prescribing forms for the purposes of this Act and providing for their use;

(i) requiring registrants to make returns and furnish information to the Registrar;

(j) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(k) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
(l) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof. R.S.O. 1970, c. 474, s. 40.