



DEPARTMENT OF JUSTICE
CANADA
MINISTÈRE DE LA JUSTICE
CANADA

Overview of the *Quarantine Act* in Canada

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Introduction

- **This presentation will summarize the essential elements of the *Quarantine Act* (2005), including:**
 - Scope of the Act
 - Key players under the Act
 - The Quarantine Processes for Travellers
 - Conveyances
 - Constitutional protections
 - Cases



Scope of the Act

- **Purpose of the Act is “to protect public health by taking comprehensive measures to prevent the introduction and spread of *communicable diseases*.”**
- **“Communicable disease” is defined as:**
 - A human disease that is caused by an infectious agent or a biological toxin and poses a risk of significant harm to public health, or
 - One of the 25 diseases listed in the Act (the list includes active pulmonary TB; SARS and Pandemic influenza type A); and
 - Includes an infectious agent that causes a communicable disease.



Scope of the Act – When, Who, Where

- **Quarantine Act is essentially a border control statute.**
- **Applies to international “travellers” and “conveyances” that:**
 - arrive in Canada; or
 - are in the process of departing from the country
- **Certain provisions of the Act deal with cadavers, body parts and other human remains.**
- **The Act is generally administered at entry and departure points.**

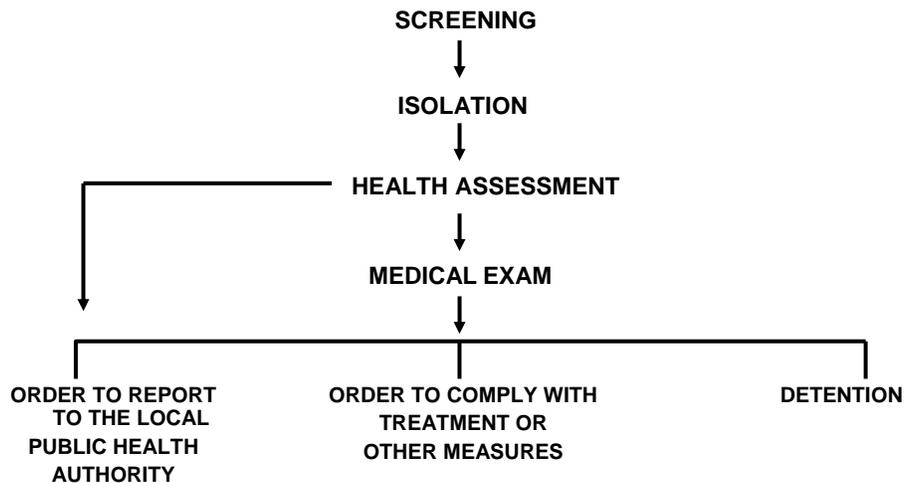


Key Players and Roles

- **Responsibility for administration and enforcement of the Act is given to several key players:**
 - **Screening officers**
 - Perform preliminary screening of a traveller or a conveyance
 - Generally customs officers
 - **Quarantine officers**
 - Can take several measures with respect to travellers or conveyances
 - Must be medical practitioners or other qualified health care practitioners
 - **Environmental health officers**
 - Involved in the inspection of conveyances, goods and cargo and may detain or take certain measures with respect to conveyances or its contents.
 - **Peace Officers (Police officers)**
 - Must provide assistance requested by any of the above officers for the administration and enforcement of the Act, including arrest of travellers.



The Quarantine Process for Travellers - Summary





Screening – The first step

- **Upon arrival, travellers have certain obligations including:**
 - presenting themselves to a screening officer;
 - disclosing a reasonable suspicion about being infected with a communicable disease; and
 - answering any relevant questions and providing required information to a screening officer or quarantine officer.
- **Screening**
 - Generally, the step which triggers the quarantine process.
 - Done by screening officers who are trained to watch for visual manifestations of a communicable disease and to pay close attention to travellers arriving from areas where there are outbreaks of communicable diseases.
 - Difficult to pick up on asymptomatic travellers.
 - Non-invasive screening technology may be used.
 - The officer may ask questions to determine whether the person has a communicable disease or symptoms of one.
 - If there are any quarantine concerns, the traveller would be referred to the quarantine officer.



Actions that can be taken by a Quarantine Officer

- **When faced with a traveller of quarantine concern, the officer has several courses of action:**
 - Health assessment
 - Disinfection
 - Order to undergo a medical examination
 - Order to undergo treatment
 - Order to undergo any other measure to prevent the introduction and spread of a communicable disease
 - Referral to a public health authority in the province
 - Detention
- **Each option has necessary pre-conditions**
- **If reasonably possible, the following general rules apply to all actions:**
 - Traveller must be informed of action before it is taken; and
 - An interpreter must be provided if the traveller does not have an adequate understanding of English or French or has a speech or hearing disability.



Health Assessment

- **A traveller or any other person at an entry or departure point may be required to undergo a health assessment in certain circumstances including;**
 - If the quarantine officer reasonably suspects a communicable disease; or
 - If the traveller refuses to:
 - be screened;
 - answer questions; or
 - comply with an order made by a screening officer or quarantine officer.
- **Health Assessment is a defined term which includes the following elements:**
 - Evaluation of medical history and travel history; and
 - Physical examination; and
 - Vital signs (such as, temperature, heart rate and respiratory rate).



Medical Examination

- **Quarantine Officer may order a medical examination if the officer reasonably believes that the traveller:**
 - has or might have a communicable disease; or
 - is infested with vectors; or
 - has recently been in close proximity to such a person
- **Defined term in the Act which includes the following elements:**
 - Ascertaining of relevant medical history and travel history;
 - Conduct of physical examination; and
 - Conduct of any laboratory tests or radiographic tests or diagnostic tests required to determine whether a person might have a communicable disease.
- **Should be conducted by a medical practitioner.**
- **48 hour time limit for medical examination.**



Options under the Act after Medical Examination or after 48 hours



Medical Examination Completed or
After 48 hour time limit

Treatment
or any measure

Report to
Public health

Detention



Detention of Travellers

- **Can be detained only in specific circumstances provided in the Act including:**
 - When there is refusal to comply with an order made by a quarantine officer; or
 - When the quarantine officer has reasonable grounds to believe that:
 - any of the prescribed preconditions exist; and
 - the traveller is capable of infecting others.
- **A traveller must not be detained if there are other reasonable measures available to prevent or control the risk of harm to public health.**
- **An officer can make an application to court requiring a detained person to submit to a medical examination or other measure to prevent and control the spread of the communicable disease.**
- **A detained traveller can be transferred to a local public health authority at any time with the agreement of that health authority.**



Detention - Rights of the detainee

- **Right to review by a Review Officer within 48 hours.**
- **Right to a medical examination at least every 7 days.**
- **Right to confirmation of detention every 7 days on the basis of the most recent medical examination and other available information.**
- **Right to counsel.**
- **Right to an interpreter, if necessary.**



Conveyances

- **Measures can be taken with respect to a conveyance to prevent introduction or spread of a communicable disease, such as:**
 - preventing the entry or exit from the conveyance;
 - taking the conveyance to a specified place;
 - disinfecting, disinfesting, decontaminating or fumigating the conveyance, cargo; and
 - destroying or disposing of the conveyance, its contents or any cargo or other thing;
- **In order to determine whether a conveyance or place or its contents could be the source of a communicable disease, officers have the power to:**
 - stop a conveyance and direct that it be moved to a place where an inspection can be carried out;
 - enter and inspect the conveyance or any place where the conveyance has been;
 - open and examine any cargo, container, baggage, package or other thing;
 - require the production of any record;
 - conduct any test or analysis or take any sample; and
 - take any measurement.



Information Collection and Disclosure

- **The Act allows officers to compel information in certain circumstances:**
 - from travellers and conveyance operators; and
 - from any person about travellers
- **The Minister has authority to collect medical information that is necessary to carry out the purposes of the Act.**
- **Information obtained under the Act may be disclosed:**
 - to specified entities (including international health organizations and domestic or foreign health authorities) in certain circumstances;
 - to prevent the spread of a communicable disease or to fulfil international obligations.



Canadian Charter of Rights & Freedoms-Some Protections

- **All laws in Canada are subject to the Constitution.**
- **Some Charter rights that may be engaged in the context of application of communicable disease control laws.**
 - Section 7: *Everyone has the right to life, liberty and security of person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.*
 - Section 9: *Everyone has the right not to be arbitrarily detained or imprisoned.*
 - Section 10 guarantees certain rights upon arrest or detention such as, right to counsel and the right to be promptly informed of the reasons for the arrest or detention.
- **All rights guaranteed by the Charter are “subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” (Section 1)**



Toronto (City) Medical Officer of Health v. Deakin

- **Medical Officer of Health in Ontario made an application to court under the *Ontario Health Protection and Promotion Act* (HPPA) to extend the period of detention and treatment of Deakin.**
- **Deakin suffered from Pulmonary Microbacterial Tuberculosis and did not want to continue his medical treatment or to be restrained in any way.**
- **Alleged that continued detention and treatment would be a violation of his Charter rights especially section 7.**
- **The Court found that section 7 rights were indeed violated but the violation was justified (under section 1).**
- **The order for continued detention and treatment was granted.**



Toronto (City) Medical Officer of Health v. McKay

- **McKay was infected with drug resistant TB.**
- **Medical Officer of Health applied for extension of McKay's detention in the hospital under the Ontario HPPA.**
- **Respondent had a history of not complying with treatment orders, and not managing his diabetes and alcoholism properly.**
- **According to the MOH, McKay was at risk of relapsing to an infectious state and presented a significant risk of harm to the public.**
- **The Respondent consented to continued treatment but did not want to be detained in the hospital. He relied on positive changes in his life (including a new supportive partner) suggesting the reduced risk of relapse.**
- **The Court granted the application for continued detention and agreed that the respondent presented a "significant risk to the health of the public."**



Conclusion

- **Quarantine Act** seeks to prevent the introduction and spread of communicable diseases by controlling Canada's borders.
- The Act provides several mechanisms to control communicable diseases.
- It is directed primarily at international travellers and conveyances.
- The federal *Quarantine Act*, in conjunction with provincial public health regimes provide an effective strategy to control communicable diseases.



APPENDIX: Quarantine Officer - Actions and Pre-Conditions

- **3 basic pre-conditions**
 - The traveller has or might have a communicable disease; or
 - The traveller is infested with vectors; or
 - The traveller has recently been in close proximity to a person who has or might have a communicable disease.



Quarantine Officer - Actions and Pre-Conditions (Contd.)

Health Assessment	The quarantine officer must have reasonable grounds to <u>suspect</u> that any of the three conditions exist.
Order to report to local Public Health authority	The quarantine officer must have reasonable grounds to <u>suspect</u> that any of the three conditions exist; <u>but</u> The officer is of the opinion that the traveller does not pose a an immediate risk of significant harm to public health
Order for Medical Examination and order for treatment following the exam	The quarantine officer must have reasonable grounds to <u>believe</u> that any of the three conditions exist.
Detention	Quarantine officer must have reasonable grounds to believe that: <ul style="list-style-type: none"> •any of the three conditions exist; <u>and</u> •the traveller is capable of infecting others