


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 772, Approved and Ordered November 04, 2016


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective on the date that section 37 of the *Fish and Seafood Act*, S.B.C. 2015, c. 14, comes into force, the attached Enforcement Regulation is made.



Minister of Agriculture



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Fish and Seafood Act*, S.B.C. 2015, c. 14, s. 62 (2) (c) and (d) and (3)

Other: _____

December 1, 2015

R/527/2015/3

ENFORCEMENT REGULATION

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SCHEDULE

Definition

- 1 In this regulation, “**Act**” means the *Fish and Seafood Act*.

Service of orders

- 2 (1) Orders and notices of variations of orders may be served on the person who is subject to the order or notice as follows:
 - (a) personally;
 - (b) by registered mail sent to the person’s last known address;
 - (c) by electronic mail sent to the person’s last known electronic mail address;
 - (d) if the order is in respect of a place, by posting it at a conspicuous location on the place;
 - (e) if the order is in respect of a class of persons, by
 - (i) delivering it to each person in the class by one or more of the methods set out in paragraphs (a), (b) or (c), or
 - (ii) if, in the opinion of an inspector, delivery to each person would be impractical in the circumstances or would be likely to cause a delay that could significantly increase the risk of distribution of unsafe food, by both delivering the notice by any communications medium and posting the order at the location where the order is most likely to be brought to the attention of the members of the class.
- (2) If an order or notice is sent by registered mail, the order or notice is deemed to be served on the person to whom it is addressed on the 14th day after deposit with Canada Post, unless the person received actual service before that day.
- (3) Subject to subsection (4), if an order or notice is sent by electronic mail, the order or notice is not effectively served unless all of the following conditions are met:
 - (a) the person who is subject to the order or notice confirms that the order or notice was received;
 - (b) the confirmation is made
 - (i) both verbally and by electronic mail,
 - (ii) by fax, including the person’s signature, or
 - (iii) in writing, including the person’s signature;
 - (c) the confirmation is received by the person who served the order or notice, or a person acting on his or her behalf, no later than 96 hours after the electronic message was sent.

- (4) The time limit set out in subsection (3) (c) does not apply if the person who is subject to the order or notice confirms, in writing and including the person's signature, after the expiry of the 96 hour period that the order or notice
- (a) was received by the person, and
 - (b) is effectively served.

Reassessment of orders

- 3** (1) A person may request reassessment of an order under section 31 [*variation and reassessment of orders*] of the Act only if the person is subject to an order made under section 25 (1) (a), (b), (e) to (h), (k) or (l) [*orders that may be made*] of the Act.
- (2) A request for reassessment must be made in writing to the inspector who issued the order, or to another inspector designated by the minister if the issuing inspector is unable to act or has ceased to be an inspector, stating the reasons why the order should be reassessed.
- (3) Within 72 hours of receiving a request for reassessment, an inspector must consider whether the order is, or conditions within the order are, no longer necessary to prevent the possession, rearing, growing, harvesting, processing, storage, transportation or distribution of unsafe food.
- (4) On reassessment, an inspector must take into account any comments made
- (a) by a person specified in the order under section 25 (1) (c) or (d) of the Act, and
 - (b) respecting whether the fish or aquatic plants that were the subject of the order being reassessed may be unsafe food.
- (5) A second request for reassessment may be made in accordance with subsection (2) not earlier than 7 days following the first request.
- (6) After a second request for reassessment is made, no subsequent request may be made.

Applications to court

- 4** (1) An application to court for a warrant under section 37 of the Act may be made
- (a) by submitting information on oath in the form set out as Form 1 of the Schedule, and
 - (b) in person, or if the inspector making the application believes it would be impracticable to appear in person, by telephone or other means of telecommunication.
- (2) A warrant may be issued in the form set out as
- (a) Form 2 of the Schedule, if the application was made in person, or
 - (b) Form 3 of the Schedule, if the application was made by telephone or other means of telecommunication.
- (3) An application to court for an injunction under section 38 of the Act may be made by filing an application in accordance with the Supreme Court Civil Rules.

SCHEDULE

FORM 1 – INFORMATION FOR WARRANT

Information to Obtain a Search Warrant

Canada: Province of British Columbia

Form 1 pursuant to section 37 of the *Fish and Seafood Act*

This is the information of _____ an inspector
Name of Inspector

of _____
Ministry, Branch, Address, Phone Number

in the Province of British Columbia (the "Informant")

- taken by me
- submitted to me by a form of telecommunication that produces a written document, because it is impracticable for the Informant to appear personally before me for the following reasons:

The Informant has reasonable grounds to believe that entry and search of the

- premises
- dwelling place
- vehicle
- vessel
- aircraft

other (specify) _____

located at _____

is warranted for authorizing an inspector in the Province of British Columbia to enter and search the place(s) indicated above, and take any necessary action for the purposes of taking an action authorized under the *Fish and Seafood Act*, or determining whether an action authorized under the *Fish and Seafood Act* should be taken.

GROUNDS FOR BELIEF ARE:

The Informant asks that a warrant be issued authorizing inspector(s) in the Province of British Columbia to enter the place(s) indicated above.

SWORN/AFFIRMED before me

on _____
Date

at _____ British Columbia
City

Signature of Applicant

Justice of the Peace in and for the Province of British Columbia

06/2015

FORM 2 – WARRANT

Warrant to Search

Canada: Province of British Columbia
Form 2 pursuant to section 37 of the *Fish and Seafood Act*

To inspectors in the Province of British Columbia:

I am satisfied, on the basis of the sworn/affirmed information of

Name of Inspector _____
of _____
Ministry, Branch, Address, Phone Number

in the Province of British Columbia that there are reasonable grounds to believe that entry and search of the following place(s) is necessary for the purposes of taking an action authorized under the *Fish and Seafood Act*, or determining whether an action authorized under the *Fish and Seafood Act* should be taken:

- premises dwelling place vehicle vessel aircraft
- other (specify) _____

located at _____

This authorizes you, or a person acting on your behalf, to enter and search the place(s) indicated above, and take any necessary action for the purposes of taking an action authorized under the *Fish and Seafood Act*, or determining whether an action authorized under the *Fish and Seafood Act* should be taken.

Dated _____ at _____ British Columbia

Justice of the Peace in and for the Province of British Columbia Print Name

To the Occupant: If you wish to know the basis on which this warrant was issued, you may apply to the clerk of the court for the territorial division in which the warrant was executed, at _____ to obtain a copy of the information on oath.

Address

You may obtain from the clerk of the court a copy of the report filed by the inspector who executed this warrant. That report will indicate the things, if any, that were seized and the location where they are being held.

FORM 3 – TELEWARRANT

Warrant to Search - Telewarrant

Canada: Province of British Columbia
Form 3 pursuant to section 37 of the *Fish and Seafood Act*

To inspectors in the Province of British Columbia:

I am satisfied, on the basis of the sworn/affirmed information of

Name of Inspector

of _____
Ministry, Branch, Address, Phone Number

in the Province of British Columbia that there are reasonable grounds for dispensing with an information presented personally and in writing and that there are reasonable grounds to believe that entry and search of the following place(s) is necessary for the purposes of taking an action authorized under the *Fish and Seafood Act*, or determining whether an action authorized under the *Fish and Seafood Act* should be taken:

- premises dwelling place vehicle vessel aircraft
- other (specify) _____

located at _____

This authorizes you, or a person acting on your behalf, within _____ days of this warrant's issuance to enter and search the place(s) indicated above, and take any necessary action for the purposes of taking an action authorized under the *Fish and Seafood Act*, or determining whether an action authorized under the *Fish and Seafood Act* should be taken. This also requires you to report on the execution of the warrant as soon as practicable but within a period of not more than 7 days after the execution of the warrant to the clerk of the court for the [territorial division in which the warrant is intended for execution].

Dated _____ at _____ British Columbia

Justice of the Peace in and for the Province of British Columbia _____
Print Name

To the Occupant: This search warrant was issued by telephone or other means of telecommunication. If you wish to know the basis on which this warrant was issued, you may apply to the clerk of the court for the territorial division in which the warrant was executed, at _____ to obtain a copy of the information on oath.

Address

You may obtain from the clerk of the court a copy of the report filed by the inspector who executed this warrant. That report will indicate the things, if any, that were seized and the location where they are being held.