

Precious Metals Marking Act (R.S.C. (Revised Statutes of Canada), 1985, c. P-19)

Act current to 2021-08-10 and on 2019-06-21.

Precious Metals Marking Act

R.S.C. (Revised Statutes of Canada), 1985, c. P-19

An Act respecting the marking of articles containing precious metals

Short Title

Short title

1 This Act may be cited as the *Precious Metals Marking Act*.

R.S., c. P-19, s. 1.

Interpretation

Definitions

2 In this Act,

apply, in relation to a mark, includes any application or attachment thereof to, or any use thereof on, in connection with or in relation to

- (a) an article,
- (b) anything attached to an article,
- (c) anything to which an article is attached,

(d) anything in or on which an article is, or

(e) anything so used or placed as to lead to a reasonable belief that the mark thereon is meant to be taken as a mark on an article; (*appliquer*)

article means any article of merchandise, and includes any portion of any article of merchandise, whether a distinct part thereof or not, other than an article or a part thereof designated by the regulations; (*article*)

Commissioner means the Commissioner of Competition appointed under the *Competition Act*; (*commissaire*)

dealer means a person who is a manufacturer or an importer of any article to which this Act applies and any person who traffics by wholesale or retail in any such article and includes any director, manager, officer or agent or mandatary of that person; (*commerçant*)

inspector means an inspector appointed or designated in accordance with section 6; (*inspecteur*)

mark includes any mark, sign, device, imprint, stamp, brand, label, ticket, letter, word or figure; (*marque*)

Minister means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act; (*ministre*)

plated article means an article composed of any substance on the surface of which a layer or plating of a precious metal is deposited or plated by means of a chemical, electrical, mechanical or metallurgical process or by means of a combination of any of those processes, and an article composed of an inferior metal to the surface of which a covering or sheeting of a precious metal is fixed by brazing, soldering or by any mechanical means; (*article plaqué*)

precious metal means gold, palladium, platinum and silver and an alloy of any of those metals and any other metal and an alloy thereof that is designated by the regulations as a precious metal for the purposes of this Act; (*métal précieux*)

precious metal article means an article wholly or partly, or purporting to be wholly or partly, composed of a precious metal and includes a plated article, and the word “article” when used in association with the name of a precious metal has a corresponding meaning; (*article de métal précieux*)

quality mark means a mark indicating or purporting to indicate the quality, quantity, fineness, weight, thickness, proportion or kind of precious metal in an article; (*marque de qualité*)

sell includes

(a) sell, offer for sale, expose for sale and have in possession for sale,

(b) distribute or offer, whether as a premium or prize, and

(c) display in such manner as to lead to a reasonable belief that the article so displayed is intended for sale. (*vendre*)

R.S., 1985, c. P-19, s. 2; 1999, c. 2, s. 48; 2011, c. 21, s. 154(E).

Marking

Unauthorized markings

3 Except as authorized by this Act, no dealer shall apply to an article, or bring into Canada an article that has applied to it, a mark that suggests or indicates that the article is a precious metal article.

R.S., c. P-19, s. 3.

When quality mark may be applied

4 (1) A quality mark that truly and correctly indicates the quality of the precious metal of which an article is in whole or in part composed may be applied to the article if the precious metal content of the article and the quality of the precious metal content meet standards provided in the regulations with respect to that precious metal.

Quality marks and manner of application

(2) A quality mark applied to a precious metal article shall be a mark authorized by the regulations for use in association with the precious metal of which the article is in whole or in part composed and shall be applied in a manner authorized by the regulations.

Trademark to be applied

(3) Where a quality mark is applied to a precious metal article in accordance with this section, a mark that is a registered trademark within the meaning of the *Trademarks Act*, or in respect of which an application for registration that is acceptable to the Minister has been filed in accordance with that Act, shall be applied to the article in a manner authorized by the regulations.

Marks authorized by law of foreign country

(4) Where a precious metal article

(a) is hallmarked in accordance with the laws of the United Kingdom, or

(b) has applied to it by the government of any foreign country a mark authorized to be applied thereto under the laws of that country that truly and correctly indicates the quality of the precious metal of which the article is in whole or in part composed,

subsection (3) is not applicable thereto and a quality mark may be applied to the article in accordance with subsections (1) and (2).

Other marks

(5) A precious metal article to which a quality mark is applied or to which a mark described in paragraph (4)(a) or (b) is applied may also have applied thereto

(a) numerals intended to identify the article or pattern and not calculated to mislead or deceive;

(b) the name or initials of a dealer; and

(c) any other mark not calculated to mislead or deceive.

R.S., 1985, c. P-19, s. 4; 2014, c. 20, s. 366(E).

National Marks

Canadian mark on articles composed of a precious metal

5 (1) Where an article that is wholly manufactured in Canada is composed of a precious metal of a quality prescribed in the regulations and has a quality mark applied to it in accordance with section 4, there may be applied to the article, by a dealer authorized by an order made by the Commissioner under subsection (2), a national mark consisting of a representation of a maple leaf surrounded by the letter “C”.

Order authorizing application

(2) The Commissioner may, by order, authorize any dealer to apply the national mark described in subsection (1) in accordance with that subsection.

R.S., 1985, c. P-19, s. 5; 1999, c. 2, s. 49.

Enforcement

Inspectors

6 The Minister may appoint or designate any person as an inspector for the purposes of this Act.

R.S., c. P-19, s. 6.

Powers of inspectors

7 (1) Subject to subsection (1.1), an inspector may at any reasonable time enter the premises of any dealer, require the production for inspection of any precious metal article on the premises of a dealer and seize any precious metal article that the inspector believes on reasonable grounds

is marked otherwise than in accordance with this Act and the regulations.

Warrant required to enter dwelling-house

(1.1) Where any premises referred to in subsection (1) is a dwelling-house, an inspector may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (1.2).

Authority to issue warrant

(1.2) Where on *ex parte* application a justice of the peace is satisfied by information on oath

(a) that entry to a dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(b) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,

the justice of the peace may issue a warrant under his hand authorizing the inspector named therein to enter that dwelling-house subject to such conditions as may be specified in the warrant.

Use of force

(1.3) In executing a warrant issued under subsection (1.2), the inspector named therein shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

Retention of seized articles

(2) Any article seized pursuant to subsection (1) may be retained for a period of ninety days and, if before the expiration of that period any proceedings in respect of the article are taken under this Act, the article may be retained until the proceedings are finally disposed of.

R.S., 1985, c. P-19, s. 7; R.S., 1985, c. 31 (1st Supp.), s. 19.

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