



ORDER OF THE PROVINCIAL HEALTH OFFICER

(Pursuant to Sections 27, 28, 29, and 67 *Public Health Act*, S.B.C. 2008)

AGRICULTURAL TEMPORARY FOREIGN WORKERS – March 14, 2021

The *Public Health Act* is at:

<http://www.bclaws.ca/civix/content/complete/statreg/08028/?xsl=/templates/browse.xsl>

(excerpts enclosed)

TO: MINISTRY OF AGRICULTURE, FOOD AND FISHERIES

TO: THIRD PARTIES FROM WHOM THE MINISTRY OF AGRICULTURE, FOOD AND FISHERIES REQUESTS INFORMATION ABOUT AGRICULTURAL TEMPORARY FOREIGN WORKERS

TO: LIFELABS

TO: OTHER PARTIES TO WHOM THE MINISTRY OF AGRICULTURE, FOOD AND FISHERIES DISCLOSES INFORMATION ABOUT AGRICULTURAL TEMPORARY FOREIGN WORKERS

WHEREAS:

- A. There are outbreaks of COVID-19 in many parts of the world, and on March 11, 2020 the World Health Organization declared COVID-19 to be a pandemic;
- B. On March 17, 2020, I provided notice under section 52 (2) of the *Public Health Act* that the transmission of the infectious agent SARS-CoV-2, which has caused cases and outbreaks of a serious communicable disease known as COVID-19 among the population of the Province of British Columbia, constitutes a regional event as defined in section 51 of the *Public Health Act*;
- C. COVID-19 is caused by the infectious agent SARS-CoV-2 and is a reportable communicable disease under the *Public Health Act*;

- D. A person who comes into Canada as an agricultural temporary foreign worker is at risk of having been, or having likely been, infected with SARS-CoV-2 and, in consequence, is an “infected person” within the meaning of the *Public Health Act*;
- E. The Ministry of Agriculture, Food and Fisheries provides support for the quarantine and testing of agricultural temporary foreign workers for COVID-19 on their arrival in British Columbia and while they are in quarantine, and for this purpose requires information, including the following information, from a third party:
- i. the name of the employer of the agricultural temporary foreign worker;
 - ii. the full name of the agricultural temporary foreign worker;
 - iii. the country of origin of the agricultural temporary foreign worker;
 - iv. the flight number for the agricultural temporary foreign worker;
 - v. the flight departure and arrival times of the agricultural temporary foreign worker;
 - vi. health information about the agricultural temporary foreign worker, including allergies, dietary restrictions, and whether or not the worker has a two week supply of any and all medications;
 - vii. the hotel name and room number for the agricultural temporary foreign worker;
 - viii. the name of the [Temporary Foreign Worker Program](#) through which the agricultural temporary foreign worker is being brought into Canada.
- F. I have reason to believe, and do believe, that quarantining and testing agricultural temporary foreign workers for COVID-19 is necessary in order to protect the health of these essential workers and the public health from the transmission of COVID-19, and, in order to facilitate testing, it is necessary for me to exercise my authority under sections 27, 28, 29 and 67 of the Public Health Act **TO ORDER**

THIS ORDER REPEALS AND REPLACES MY ORDER OF MARCH 6, 2021 WITH RESPECT TO AGRICULTURAL TEMPORARY FOREIGN WORKERS

In this Order

“**information**” includes personal information as that term is defined in the *Freedom of Information and Protection of Privacy Act*.

1. The Ministry of Agriculture, Food and Fisheries may collect information, including the following information, necessary to facilitate the quarantine, wellness during quarantine, and testing of an agricultural temporary foreign worker on and after their arrival in British Columbia, and a third party from whom the Ministry of Agriculture, Food and Fisheries requests information about an agricultural temporary foreign worker must provide this information to the Ministry of Agriculture, Food and Fisheries:
 - i. the name of the employer of the agricultural temporary foreign worker;
 - ii. the name of the agricultural temporary foreign worker;
 - iii. the country of origin of the agricultural temporary foreign worker;
 - iv. the flight number for the agricultural temporary foreign worker;

- v. the flight departure and arrival times of the agricultural temporary foreign worker;
 - vi. health information about the agricultural temporary foreign worker, including allergies, dietary restrictions, and whether or not the worker has a two week supply of any and all medications;
 - vii. the hotel name and room number for the agricultural temporary foreign worker;
 - viii. the name of the [Temporary Foreign Worker Program](#) through which the agricultural temporary foreign worker is being brought into Canada.
2. The Ministry of Agriculture, Food and Fisheries may disclose the name of an agricultural temporary foreign worker, the arrival and departure information of their flights, and the location at which the temporary foreign worker will be in quarantine to LifeLabs for the purpose of arranging for the temporary foreign worker to be tested for COVID-19 on arrival in British Columbia, and while the agricultural temporary foreign worker is in quarantine.
 3. This information must be disclosed to LifeLabs via secure file transfer, and original versions and all copies of this information must be destroyed by LifeLabs within 14 days of receipt.
 4. The Ministry of Agriculture, Food and Fisheries may disclose information about agricultural temporary foreign workers to the operator of a hotel, or other place of accommodation, and to the organization named S.U.C.C.E.S.S., and any other third party, for the purposes of facilitating the quarantine, and health and wellness during quarantine, of agricultural temporary foreign workers.

This Order does not have an expiration date.

You are required under section 42 of the *Public Health Act* to comply with this Order.

Under section 43 of the British Columbia *Public Health Act*, you may request me to reconsider this Order if you:

1. Have additional relevant information that was not reasonably available to me when this Order was issued,
2. Have a proposal that was not presented to me when this Order was issued but, if implemented, would
 - a. meet the objective of the order, and
 - b. be suitable as the basis of a written agreement under section 38 [may make written agreements]
3. Require more time to comply with the order.


Under section 43 (6) an order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

You may contact me at:

Dr. Bonnie Henry
Provincial Health Officer
4th Floor, 1515 Blanshard Street
PO Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
Fax: (250) 952-1570
Email: ProvHlthOffice@gov.bc.ca

DATED THIS: 14th day of March 2021

SIGNED: 

Bonnie Henry
MD, MPH, FRCPC
Provincial Health Officer

DELIVERY TO:

- the Ministry of Agriculture, Food and Fisheries by email to Shannon Tucker, Labour Project Lead, Agriculture Science and Policy Division Ministry of Agriculture, Food and Fisheries, email: shannon.tucker@gov.bc.ca and
- LifeLabs by email to:
 - Trevor McLean, Director Client Services, email: Trevor.McLean@lifelabs.com;
 - Romina Reyes, BC Medical Director, email Romina.Reyes@lifelabs.com

DELIVERY BY: Email and posting to the BC Government and the BC Centre for Disease Control websites.

Enclosure: Excerpts of *Public Health Act*.

Enclosure

Excerpts of the Public Health Act

Definitions

1 In this Act:

"exposed" means to have been

- (a) in contact with, or near, a person or thing that is or may be infected with an infectious agent or contaminated with a hazardous agent, or
- (b) in an environment contaminated with an infectious agent or a hazardous agent,

"infected person" or "infected thing" means a person who, or thing that,

- (a) is or is likely infected with, or has been or has likely been exposed to, a prescribed infectious agent, or
- (b) is or is likely contaminated with, or has been or has likely been exposed to, a prescribed hazardous agent

When orders respecting infectious agents and hazardous agents may be made

27 (1) A medical health officer may issue an order under this Division only if the medical health officer reasonably believes that

- (a) a person
 - (i) is an infected person, or
 - (ii) has custody or control of an infected person or an infected thing, and
- (b) the order is necessary to protect public health.

(2) An order may be issued based on clinical findings or a person's or thing's circumstances or medical history, even if the person or thing has been examined and the examination did not reveal the presence of an infectious agent or a hazardous agent.

(3) For greater certainty, this section applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting infectious agents and hazardous agents

28 (1) If the circumstances described in section 27 [when orders respecting infectious agents and hazardous agents may be made] apply, a medical health officer may order a person to do anything that the medical health officer reasonably believes is necessary for either or both of the following purposes:

- (a) to determine whether an infectious agent or a hazardous agent exists, or likely exists;
- (b) to prevent the transmission of an infectious agent or a hazardous agent.

(2) A medical health officer may, in respect of an infected thing,

- (a) make any order, with any necessary modifications, that can be made under this Division as if the infected thing were an infected person, and
- (b) direct the order to any person having custody or control of the infected thing.

Specific powers respecting infectious agents and hazardous agents

- 29 (1) An order may be made under this section only
- (a) if the circumstances described in section 27 [when orders respecting infectious agents and hazardous agents may be made] apply, and
 - (b) for the purposes set out in section 28 (1) [general powers respecting infectious agents and hazardous agents].
- (2) Without limiting section 28, a medical health officer may order a person to do one or more of the following:
- (a) remain in a specified place, or not enter a place;
 - (b) avoid physical contact with, or being near, a person or thing;
 - (c) be under the supervision or care of a specified person;
 - (d) provide to the medical health officer or a specified person information, records, samples or other matters relevant to the person's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or a hazardous agent by the person;
 - (e) be examined by a specified person, including
 - (i) going to a specified facility for examination, and
 - (ii) being examined before a particular date or according to a schedule;
 - (f) submit to diagnostic examination, including going to a specified facility or providing the results to a specified person;
 - (g) take preventive measures, including
 - (i) going to a specified facility for preventive measures,
 - (ii) complying with preventive measures set out in the order, specified by a medical practitioner or nurse practitioner, or both, and
 - (iii) beginning preventive measures before a particular date, and continuing until a particular date or event;
 - (h) provide evidence of complying with the order, including
 - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
 - (ii) providing to a medical health officer any relevant record;
 - (i) take a prescribed action.

Duty to comply with orders

- 42 (1) A person named or described in an order made under this Part must comply with the order.
- (2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

Reconsideration of orders

- 43 (1) A person affected by an order, or the variance of an order, may request the health officer who issued the order or made the variance to reconsider the order or variance if the person
- (a) has additional relevant information that was not reasonably available to the health officer when the order was issued or varied,

- (b) has a proposal that was not presented to the health officer when the order was issued or varied but, if implemented, would
 - (i) meet the objective of the order, and
 - (ii) be suitable as the basis of a written agreement under section 38 [may make written agreements], or
- (c) requires more time to comply with the order.

(2) A request for reconsideration must be made in the form required by the health officer.

(3) After considering a request for reconsideration, a health officer may do one or more of the following:

- (a) reject the request on the basis that the information submitted in support of the request
 - (i) is not relevant, or
 - (ii) was reasonably available at the time the order was issued;
- (b) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;
- (c) confirm, rescind or vary the order.

(4) A health officer must provide written reasons for a decision to reject the request under subsection (3) (a) or to confirm or vary the order under subsection (3) (c).

(5) Following a decision made under subsection (3) (a) or (c), no further request for reconsideration may be made.

(6) An order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

(7) For the purposes of this section,

- (a) if an order is made that affects a class of persons, a request for reconsideration may be made by one person on behalf of the class, and
- (b) if multiple orders are made that affect a class of persons, or address related matters or issues, a health officer may reconsider the orders separately or together.

(8) If a health officer is unable or unavailable to reconsider an order he or she made, a similarly designated health officer may act under this section in respect of the order as if the similarly designated health officer were reconsidering an order that he or she made.

Offences

99 (1) A person who contravenes any of the following provisions commits an offence:

- ...
- (k) section 42 [failure to comply with an order of a health officer], except in respect of an order made under section 29 (2) (e) to (g) [orders respecting examinations, diagnostic examinations or preventive measures].