



THE GLOBAL
FOOD DONATION
POLICY ATLAS

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CANADA
**LEGAL
GUIDE**
FOOD DONATION
LAW AND POLICY

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Authors

This report was written by the following staff and students at the Harvard Law School Food Law and Policy Clinic: Emily M. Broad Leib, Ariel Ardura, Brian Fink, Julia Nitsche, Alex Harding, Jenna Welsh, and Taylor Dodson.

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws around food donation in order to help address both food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe, in order to: help practitioners understand national laws relating to food donation; compare laws across countries and regions; analyze legal questions and barriers to donation; and share best practices and recommendations for overcoming these barriers. The project is a partnership between Harvard Law School Food Law and Policy Clinic and The Global FoodBanking Network. To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit www.atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

The Harvard Law School Food Law and Policy Clinic (FLPC) serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. Our focus is on increasing access to healthy foods, supporting sustainable food production and food systems, and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/FLPC.



About The Global FoodBanking Network

The Global FoodBanking Network is an international non-profit organization that nourishes the world's hungry through uniting and advancing food banks in more than 40 countries. GFN focuses on combating hunger and preventing food waste by providing expertise, directing resources, sharing knowledge and developing connections that increase efficiency, ensure food safety, and help food banks reach more people facing hunger. For more information visit www.foodbanking.org.



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INTRODUCTION

Purpose of this Guide

Food loss and waste has emerged as one of the greatest food system challenges that we face today. An estimated one-third of food produced globally is lost or wasted along the supply chain;¹ this amounts to approximately 1.3 billion tons of food each year that ends up in the landfill.² Food loss or waste occurs at every stage of the food system: food is lost during the initial harvest due to low market prices, high labor costs, and demand for perfect-looking produce; food is wasted by grocery stores and restaurants over-estimating customer demands; and food is discarded by consumers who engage in inefficient shopping and cooking practices and lack a clear understanding about date labels.³

These behaviors have significant environmental, economic, and social consequences: food that is lost or wasted has a huge carbon footprint of 3.3 gigatons,⁴ using roughly 28% of agricultural land,⁵ and accounting for eight percent, or 70 billion tons, of total global greenhouse gas emissions.⁶ The market value of food products lost or wasted is approximately \$940 billion per year.⁷ Meanwhile, more than 820 million people are undernourished and one in nine is food insecure.⁸ The international community has sought to address this paradox and mobilize the reduction of food waste, especially within the framework of the 2030 Agenda for Sustainable Development and Sustainable Development Goal 12.3.⁹

In many countries, food donation has emerged as a popular and logical solution to redirect safe, surplus food into the hands of those who need it most. Most food donations are facilitated through food banks or other charitable, non-governmental organizations that recover surplus, wholesome food and redirect the recovered food to local beneficiary agencies (such as soup kitchens, shelters, and community pantries) to feed low-income, food insecure persons. As food insecurity, food loss, and food waste have continued to rise, new, innovative models of food recovery have emerged around the world.

However, uncertainty surrounding the laws and regulations most relevant to food donation threatens to hinder the expansion of these food recovery organizations and limit their potential impact. To help address the most pressing and universal legal and policy questions, the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN) have partnered to create The Global Food Donation Policy Atlas. This innovative partnership will map the laws and policies affecting donations in 15 countries over the course of two years. The project aims to: identify national laws relating to food donation, analyze the most common legal barriers to promoting greater food donation and share best practices and recommendations for overcoming these barriers.

THE PROJECT AIMS TO IDENTIFY AND EXPLAIN NATIONAL LAWS RELATING TO FOOD DONATION, ANALYZE THE MOST COMMON LEGAL BARRIERS TO PROMOTING GREATER FOOD DONATION AND SHARE BEST PRACTICES AND RECOMMENDATIONS FOR OVERCOMING THESE BARRIERS.

This Legal Guide focuses on Canada, where about 60% of food produced in the country is lost and wasted each year,¹⁰ while one in eight Canadian households is food insecure.¹¹ FLPC and GFN, in collaboration with partners in Canada, have developed this resource to help food donors, food banks and other intermediaries (hereafter collectively referred to as “food recovery organizations”) understand the relevant legal frameworks that impact food loss, waste and donation efforts.¹² It is also intended to serve as a resource for stakeholders in other countries who are looking to inform their own food donation laws and policies.

After providing initial commentary on food loss and recovery in Canada, this guide provides an overview of the legal frameworks most relevant to food donation at the national and local level. The subsequent sections take a closer look at the laws generally applicable to food donation: food safety laws and regulations, food date labeling laws, “Good Samaritan” or liability protection laws, tax incentives for food donation and tax policy disincentives, and waste diversion laws that penalize food waste or require recovery. The extent to which Canada has developed and subsequently implemented these authorities compared with other countries may vary.

State of Food Insecurity, Food Loss, Waste, and Recovery in Canada

Despite being a prosperous country, there are large pockets of food insecurity and poverty in Canada, particularly in the less economically developed and more sparsely populated Northern Territories and Maritimes. In 2018, 8.7% of Canadians fell below Canada’s official poverty line.¹³ In 2018, 5.7% of Canadian households reported moderate food insecurity, while 3% of households were considered severely food insecure.¹⁴ A survey by Statistics Canada estimated food insecurity rates to be 11.4% in the Yukon and 13.7% in the Northwest Territories.¹⁵ Food insecurity is especially prominent in Nunavut, where an estimated 36.7% of people are food insecure.¹⁶ Among Aboriginal people, food insecurity rates are even higher – 32% in the Northwest Territories and 56% in Nunavut.¹⁷

Until recently, Canada has attempted to combat poverty and hunger primarily through the creation and expansion of social assistance programs; there were very few programs or policies created by the Canadian government to directly address food insecurity. This changed in 2019, when the Canadian government launched its first ever national food policy.¹⁸ This policy calls for strengthening the Canadian food system to increase access to healthy food and decrease the amount of food waste. The policy also calls for investment in local food infrastructure, such as greenhouses, community kitchens, farmers’ markets, and food bank projects; programs to strengthen Indigenous food systems in the North; and the development of a National School Food Program.¹⁹

Canada by the Numbers

Population 37,694,000	Prevalence of Severe Food Insecurity 3.0%	World Bank Classification High Income
Median Age 41.8 years	Global Food Security Index 82.4	Human Development Index 0.922
GDP \$1.713 trillion	GINI Index 34	FLW Estimates 11 million tons
Poverty Rate 8.7%	Food Sustainability Index 75.3	

Source: The Global FoodBanking Network, Feb. 2020

Despite this recent attention to food insecurity and Canada’s food system overall, over half of food produced in Canada is lost and wasted²⁰ annually, and almost one-third of such lost and wasted food is avoidable.²¹ Economically, 11 million metric tons of food every year—worth nearly \$50 billion—is estimated to be wasted in Canada²² and over \$100 billion is wasted in indirect costs, “including labor, infrastructure, and energy.”²³

The value of the food that is wasted nationally each year could feed everyone in Canada for almost five months.²⁴ Further, this food waste and loss negatively impacts the environment. An estimated 60% of Canada’s food industry “blue water footprint,” which represents fresh surface and groundwater utilized in food production, is

ultimately used for food that is lost and wasted.²⁵ It is further estimated that 10% of Canada's overall greenhouse gas emissions are from agricultural production.²⁶

While some food waste and loss is inevitable, an estimated 86% of avoidable food waste is not rescued and redistributed in Canada.²⁷ Avoidable food waste and loss occurs primarily at the manufacturing, processing, and household levels, with food waste in the home accounting for almost one-fourth of overall avoidable food waste and loss.²⁸

OVER HALF OF FOOD PRODUCED IN CANADA IS LOST AND WASTED ANNUALLY, AND ALMOST ONE-THIRD OF SUCH LOST AND WASTED FOOD IS AVOIDABLE.

Canada is currently working on efforts to reduce food loss and waste. For example, Environment and Climate Change Canada (ECCC), the department responsible for environmental policy, recently assembled and published a report addressing the issue of food loss and waste, outlining current efforts by provinces and nongovernmental organizations to address the issue, and identifying key action areas for future improvement.²⁹ ECCC also recently created a strategy on short-lived climate pollutants that includes strategies for reducing methane emissions from landfills.³⁰ Canada is also currently working with Mexico and the United States under the Commission for Environmental Cooperation to share resources on food loss and waste across country borders.³¹ Efforts are being made at the provincial level as well. For instance, every province has enacted liability protection legislation to protect food donors from civil liability arising from food-related injuries and four provinces have enacted tax incentives for food donations. In short, food loss and waste is a problem that is beginning to be taken seriously by Canadian policymakers.

Efforts to reduce food loss and waste are also occurring outside the government. Nongovernmental attempts to reduce food loss and waste have included efforts to bring second-grade produce to large supermarkets in Canada, guidance by Food Banks Canada for interpreting date labels in an effort to reduce food loss and waste due to date labelling confusion,³² and the formation of a working group by the Packaging Association of Canada to identify potential packaging solutions to reduce food loss and waste.³³ Many other organizations are currently working on solutions to repurpose food that may otherwise be wasted or lost.³⁴ Additionally, there are an estimated 4,140 food banks and food rescue organizations across Canada.³⁵

In addition to distributing recovered food to low-income, food insecure persons, numerous organizations in Canada are working to eradicate the causes that drive people to seek the aid of food banks and food rescue organizations in the first place. For example, Food Banks Canada advocates for changes in government policy that strengthen Canada's social safety net and address the country's systemic poverty issues in order to reduce food insecurity and the need for food banks.³⁶

Scaling up these operations and investing in new and innovative solutions to hunger and food waste requires recognizing and understanding the laws and policies that apply to food donation. It may also require strengthening some of these laws to better support food recovery, an issue that is further explored in a companion document to this guide.³⁷ The remaining sections of the guide will provide an overview of Canada's food donation legal framework and address the issues most likely to arise for food donors, food recovery organizations, policymakers, and other interested stakeholders.

OVERVIEW OF CANADA'S RELEVANT LEGAL FRAMEWORK

The Constitution of Canada establishes a federal system of government, under which powers are distributed

between the federal government and provincial governments. At the national level, power is allocated across the executive branch (including the Crown, Prime Minister, and Cabinet), judicial branch (the court system), and legislative branch (Parliament). The jurisdiction of the provinces and local governments is contained in an enumerated list in the Constitution Acts of 1867 to 1982.³⁸ The jurisdiction of the federal government is also contained in an enumerated list in the Constitution, though the federal government retains residual power to govern issues outside of the list not prohibited to it by the exclusive provincial powers.³⁹ At a basic level, the federal government retains jurisdiction over issues of national importance, such as “national defense, foreign affairs, criminal law, immigration, banking, international trade, and intellectual property.”⁴⁰ Provinces and territories retain power over regional issues such as direct taxation, education, social programs, civil claims, contracts, and commerce.⁴¹ That said, in practice, functions are often shared between the federal and provincial governments. The CRA, for instance, collects taxes on behalf of the Ontario Ministry of Finance, and redistributes the provincial share of the taxes back to the local government later. Health and food are not enumerated in the Constitution; in practice, these issue areas have become a shared or concurrent power between federal and provincial authorities.⁴²

At the federal level, the Federal Constitution is the primary and preeminent source of law, followed by statutes (e.g. the Criminal Code, Canada Evidence Act, Canadian Human Rights Act) and administrative rules and regulations. The federal system in Canada involves a number of agencies that oversee distinct subject areas.

While most issues surrounding food donation involve private law,⁴³ any issues involving criminal liability or tax benefits invoke public law. Public law involves relationships between the government (the “public”) and individuals. For example, a criminal lawsuit would be brought by the government against an individual. Private law, on the other hand, involves disputes between two private individuals. Private law in Canada follows the common law system, with the exception of Quebec. Common law is a collection of judge-made legal precedents that define certain important legal concepts (e.g. negligence). Quebec presents an exception in that it follows a civil law system.⁴⁴ Unlike common law, civil law involves judicial application of codified laws that apply to the specific facts of a case in which precedent from prior court decisions has little to no influence. While all other Canadian provinces inherit a judicial system based on English common law, Quebec inherits its code of laws from French civil law.⁴⁵

While this report will generally focus on federal law, Quebec and a mixture of common law jurisdictions such as Ontario and Nova Scotia will be referenced in places where provincial law is relevant, as a way to illustrate some examples of provincial-level laws and regulations.

Federal Government Food-Related Agencies

The federal government controls matters related to interprovincial and international commerce, farm assistance programs, research and development, food safety standards, packaging and labeling, and nutrition and health.⁴⁶ This power stems from the federal government’s ability to enact legislation and regulation regarding criminal law and trade and commerce. Health Canada, a department run under the Minister of Health, is responsible for setting food safety policies and also making health risk assessments for food.⁴⁷ Most food safety rules promulgated by Health Canada regulate what is allowed into Canadian food, such as food additives, maximum levels of contaminants, the addition of vitamins and minerals, and certain standards of identity.⁴⁸ Health Canada is part of the Health Portfolio overseen by the Minister of Health, which is also comprised of the Public Health Agency of Canada, the Canadian Institutes of Health Research, the Patented Medicine Prices Review Board, and the Canadian Food Inspection Agency.⁴⁹

While Health Canada promulgates regulations related to food safety, the Canadian Food Inspection Agency (CFIA) is a regulatory agency that enforces these regulations along with any other applicable federal law relating to food, such as the Food and Drugs Act.⁵⁰ CFIA may do so through initiating food recalls, investigating food responsible for food-borne illness outbreaks, and otherwise ensuring compliance with food safety

regulation through the use of inspections and compliance verification.⁵¹ Thus, Health Canada and the CFIA are independent of each other, but the CFIA works to enforce the food safety policies and standards that Health Canada promulgates.

While Health Canada and the Canadian Food Inspection Agency are the main federal agencies responsible for overseeing food safety in Canada, other relevant agencies include the Public Health Agency of Canada (PHAC) and Agriculture and Agri-Food Canada (AAFC). PHAC is also under the Health Portfolio of the Minister of Health and is responsible for conducting public health surveillance and responding to food-related illness outbreaks.⁵² AAFC is a separate department that works to oversee the non-food safety related aspects of agricultural activities including production, processing, and marketing of farm, food, and bio-based products.⁵³ The agency enacts regulations and leads initiatives to support the agriculture and agri-food sector's growth and development.⁵⁴

Lastly, the Canadian Council of Ministers of the Environment (CCME) promotes national goals regarding waste issues and coordinated approaches for provincial and territorial authorities through its Waste Reduction and Recovery Committee.⁵⁵

WHILE HEALTH CANADA PROMULGATES REGULATIONS RELATED TO FOOD SAFETY, THE CANADIAN FOOD INSPECTION AGENCY ENFORCES THESE REGULATIONS.

Federal Food Safety Law

Canada's Food and Drugs Act, enacted in 1920 and last revised in 1985,⁵⁶ is the primary source of food regulation in Canada. The Act and the Food and Drug Regulations promulgated by Health Canada under its authority regulate all locally-produced and imported food and drug products in order to protect public health and the integrity of commercial transactions. The Food and Drugs Act addresses food advertising and claims, adulteration and food safety, labeling and packaging, fortification, food additives, chemical and microbial hazards, and pesticides, among other subject matters.⁵⁷ It also sets out enforcement provisions and offenses for violation of its provisions.⁵⁸ As noted above, Health Canada is responsible for interpreting the Food and Drugs Act as well as promulgating standards and regulations under its authority while CFIA is responsible for enforcing the Act and the corresponding regulations developed by Health Canada.⁵⁹

The Federal government adopted the Safe Food for Canadians Act (SFCA) in 2012, which consolidated the Fish Inspection Act, Canada Agricultural Products Act and Associated Regulations, the Meat Inspection Act, and the Consumer Packaging and Labeling Act.⁶⁰ The Safe Food for Canadians Regulations (SFCR) promulgated pursuant to the Act regulate food commodities' inspection, safety, labeling, advertising, importation and exportation, as well as interprovincial trade.⁶¹ The SFCR is comprised of 11 parts and contains important provisions relating to licensing and preventative controls.⁶² As with the Food and Drugs Act, Health Canada is responsible for interpreting the SFCA and promulgating relevant regulations and CFIA is responsible for enforcement. Other important federal food safety legislation includes the Canadian Food Inspection Agency Act, which established the CFIA and sets out the composition and responsibilities of the Agency.

Other Relevant Federal Law

Other food-related legislation includes the Canada Grain Act, which established the Canadian Grain Commission which sets standards for grain grades and quality; the Pest Control Products Act, which sets maximum residue limits for pesticides; and the Income Tax Act, which sets out the relevant structure for income taxes in Canada.

Provincial and Territorial Law

Canada's ten provinces and three territories each have limited powers of self-governance, balanced with federal power. The source of law-making authority is the main difference between a province and a territory. Provinces enjoy power from the Canadian Constitution directly.⁶³ Sections 91-95 of the Constitution Act describe the division of powers between the federal government and provinces.⁶⁴ Provincial acts are laws passed by Canada's provincial governments and regulate matters that are under provincial constitutional authority, typically property rights, education, health law, and family law. As such, provinces have ample room to legislate on food donation.⁶⁵

Alternatively, territories may only exercise those powers directly delegated to them by the Parliament of Canada. All three territories have been granted the ability to legislate on local food safety matters, including food donation.⁶⁶ While relevant regulations and national goals regarding food safety are largely set at the federal level, provinces and territories also have their own regulatory agencies, including health ministries or departments.⁶⁷ These local agencies can pass and enforce their own, additional regulations.

Some provinces have passed legislative acts regarding food donation, such as Ontario's Donation of Food Act.⁶⁸ Others have regulations specific to food donation, such as Quebec's Food Regulations under the Food Products Act.⁶⁹ Four provinces have also implemented tax credits to incentivize food donation.⁷⁰ Territories have likewise addressed food donation by passing legislation to protect food donors, such as the Northwest Territories Donation of Food Act or Yukon's Donation of Food Act.⁷¹

Finally, certain provinces and regions have programs facilitating the donation of hunted game or roadkill to food banks within their borders.⁷² When donation of hunted game or roadkill is possible, the hunters or donors generally have to take their donation to an organization that will sanitarily cut and wrap the meat before it goes to the food bank.⁷³ Donors should be sure to follow relevant provincial and local laws in donating these items.

LEGAL ISSUES RELEVANT TO FOOD DONATION

Food Safety for Donations

In many countries, a key barrier to the donation of surplus food is the lack of knowledge or readily available guidance regarding safety procedures for food donation. Potential donors are often uncertain as to which food safety regulations apply to donated food, as opposed to purchased food, as well as the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe, surplus food that could have been redirected to populations in need is instead destined for landfills.

In Canada, federal food safety laws are largely contained within the Food and Drugs Act and Safe Food for Canadians Act, and are generally applicable to any person, commercial firm, or establishment that develops, divides, conserves, transports, sells, displays, or imports or exports food.⁷⁴ Health Canada is responsible for promulgating rules, policies, and regulations that establish food safety standards, while the CFIA is responsible for enforcing such standards.

The Food and Drugs Act prohibits the sale of food that is unsafe, adulterated, or prepared in unsanitary conditions.⁷⁵ Additionally, the Act prohibits the labeling, packaging, selling, or advertising food in a way that is false, misleading or deceptive.⁷⁶

Under the Safe Food for Canadians Act, it is prohibited to tamper with food items, threaten to render food injurious to health, or transfer food across provincial lines that is not in compliance with regulations promulgated by Health Canada under the authority of the Safe Food for Canadians Act.⁷⁷ The Safe Food for Canadians Regulations set packaging standards such as container sizes for fresh and processed foods.⁷⁸ The Regulations also set standards for labeling such as mandating nutrition labeling for all prepackaged foods, including an ingredient list and requiring allergens to appear on the list when applicable.⁷⁹

Additionally, the provinces all have specific laws regulating food safety within their borders. Therefore, in addition to complying with federal law, it is also important that donors remain aware of and in compliance with their local food safety regulations. These laws generally require food businesses, including food banks, to obtain valid licenses, ensure that food handlers obtain certification, and keep their premises sanitary. Violations of local food safety laws can result in lost permits or licenses, significant fines, and/or reputational damage due to any report of a food safety incident.⁸⁰

There are no federal food safety laws in Canada that contain regulations or guidance related to the food safety requirements for donated foods. The Food and Drugs Act and Safe Food for Canadians Act do not explicitly discuss whether their provisions are relevant only to food that is sold, but not donated, nor do the regulations issued under these acts by Health Canada. Even though some of the regulations under the Food and Drugs Act and Safe Food for Canadians Act are not strictly related to safety (e.g. nutrition or net quantity labeling requirements), there are no laws addressing whether such requirements apply to food that is donated. Without a clear distinction between food safety and non-safety provisions in these laws and regulations, food donors should presume that compliance with all Food and Drug and Safe Food for Canadians Act rules is needed to ensure food safety when donating food. Intentional or reckless violation of provisions of the Food and Drugs Act, Safe Food for Canadians Act, or other applicable state or federal food laws may amount to negligence or willful misconduct on the part of food donors and may disqualify them from liability protection provided under provincial law. In addition, entities involved in food donation, including the storage and distribution phase, must comply with all food safety laws.⁸¹ These entities may be subject to inspections by the CFIA, which is empowered to inspect any place that manufactures, prepares, preserves, packages, or stores food items.⁸²

Date Labeling

Date labels affixed to food products are a major driver of food waste and obstacle to food donation. As explained in the previous section, most food donors and food recovery organizations are appropriately cautious about donating food that meets safety standards, but it is not always clear which standards relate to food safety. And, while fresh products like fruits and vegetables will appear visibly spoiled when they are no longer safe to consume, it can be more difficult to gauge when this is the case for packaged foods. Many donors interpret date labels affixed to such food products as indicators of safety and will therefore throw away food once the date has passed; intermediaries may refuse to accept donated food after this date, deeming the food product unfit for human consumption.

Despite this interpretation, for the vast majority of foods, date labels indicate freshness or quality rather than food safety. Manufacturers use a variety of quality-based methods to determine the timeframe for dates, all of which are intended to reflect when the food will be at its “peak quality.”⁸³ Nevertheless, global trends indicate that consumers generally confuse date labels as indicators of safety rather than quality. In the United Kingdom, for example, researchers found that consumers discarded about 22% of food that they could have eaten due to confusion over date labeling.⁸⁴ Similarly, 84% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is minimal risk of a foodborne illness at that time.⁸⁵

In Canada, the federal government outlines date labeling requirements for food packagers.⁸⁶ Canadian provinces have not imposed additional date labeling requirements.⁸⁷ Federal responsibility for date labeling in Canada is falls under the food safety authorities discussed above. Health Canada establishes standards for safety and quality in date labeling through regulations promulgated under the Food and Drug Act and the Safe Food for Canadians Act,⁸⁸ and CFIA enforces those regulations through its inspection and verification processes and

provides additional guidance in some areas where the regulations are silent.⁸⁹

The Food and Drug Regulations require a safety-related expiration date for five types of food, listed below.⁹⁰ The Regulations require quality-related dates (i.e., “best-before”) for perishable foods with a shelf life of 90 days or less.⁹¹ In addition to these required date labels, food businesses may choose to include date labels on other products, meaning that a wide range of products carry date labels in Canada.

Safety-Related Expiration Dates

The Food and Drug Regulations require a specific safety-based expiration date “only on certain foods that have strict compositional and nutritional specifications which might not be met after the expiration date.”⁹² Five types of food are required to carry these safety-based expiration dates regardless of shelf life. These are:

- (1) baby formula and human milk substitutes;
- (2) nutritional supplements;
- (3) meal replacements;
- (4) pharmacist-sold foods for very-low-energy diets, and;
- (5) formulated liquid diets.⁹³

The regulations define expiration date as the date after which “the manufacturer does not recommend that [the food] be consumed.” While the regulations do not explicitly prohibit the sale or donation of foods carrying an expiration date, this definition appears to imply such a prohibition.⁹⁴

Quality-Related Dates

Producers and manufacturers are required under the Food and Drug Regulations to apply a “best before/ meilleur avant” date for products with a durable life of 90 days or less, along with storage instructions.⁹⁵ The “durable life” of a food product means the period during which the product retains its palatability and nutritional value.⁹⁶ The amount of time for a product’s “durable life” is not prescribed in regulation; it is to be determined by the regulated parties themselves.⁹⁷ This means food producers are responsible for assessing whether or not their product has a durable life of less than 90 days and affixing the appropriate label.⁹⁸ Further, the “durable life” can be displayed a number of ways; affixed on the food as a label, or on a poster next to the food—and it can be expressed “several ways, e.g. the number of days a product will retain its freshness or as a ‘best before’ date[.]”⁹⁹

If the product has a durable life of 90 days or less and is packaged on the retail premises from which it is sold, the Food and Drug Regulations provide two options of labelling requirements. Retailers must either declare the packaging date and durable life of the food, or declare the durable life date and storage instructions.¹⁰⁰ Note that storage instructions need only be included if they differ from normal room temperature.¹⁰¹

The Regulations exempt several categories of food from the durable life date or packaged on date requirements. These products are: prepackaged fresh fruit and vegetables, prepackaged individual portions of food served by restaurants or airlines, prepackaged individual portions of food sold in commissaries and vending machines, and prepackaged donuts.¹⁰²

Foods which are past their durable life date or packaged on date are not necessarily unfit for consumption. Date labels typically represent the manufacturer’s estimation of best quality and taste; they are not intended to indicate when the food product is no longer safe to eat.¹⁰³ As such, the Food and Drug Regulations do not restrict sale or donation of foods past their quality date, and CFIA notes that “products may be found for sale after the ‘best before’ date has passed as the date is based on freshness and quality rather than safety.”¹⁰⁴ This means that food manufacturers or retailers are free to donate past-date foods that may no longer appeal to paying customers, but are still safe to consume. However, it is not clear that all food donors or food recovery

organizations understand that this is allowed.

Voluntary Date Labels

In addition to those products which require a durable life date or “expiration” label, food producers are allowed to include date labels on other products, so long as they are not “misleading” and the label meets any appropriate requirements under the Food and Drug Regulations.¹⁰⁵ This leads to confusion, as producers frequently include voluntary date labels, in addition to those required under the Regulations or even when none would be required under the Food and Drug Regulations. Labels commonly used in Canada include: “use by,” “sell by,” “freeze by,” “manufactured on,” and “packaged on.”¹⁰⁶ Some producers use date labels with no explanatory language whatsoever – they simply stamp a date on the food packaging with no further guidance for the customer.¹⁰⁷

This system of both mandatory and voluntary date labeling leads to confusion,¹⁰⁸ which may be a barrier to donation. Canadian food banks are working hard to make clear to food donors that they should err on the side of donating food past the durable life date or other voluntary quality date¹⁰⁹

Liability Protection for Food Donations

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming the donated food. To address this fear, several countries, as well as provincial or regional governments, have enacted liability protections meant to protect donors of food.

This section will address the scope of liability protection for donors and food banks in Canada. While liability protection has not been enacted at the federal level, each province in Canada as well as the Northwest Territories and Yukon Territory have passed laws to provide protection from civil liability to both companies and individuals who donate food. Liability protection is not absolute; in most of the provinces, acting with reckless disregard or an intent to injure can still result in liability.

Civil Liability Protection

While the federal government has not enacted any specific legislation providing liability protection for food donors, each of the Canadian provinces and territories has enacted laws to protect donors from civil liability that may arise from the potential harm associated with donated food. While these provincial laws are not identical, they share many common elements. Drawing on those common elements, this section will discuss who is legally authorized to donate and receive food under these laws, what the requirements are under these laws, and the scope of protection afforded to food donors and intermediaries under these laws.

In all jurisdictions besides Quebec, the legal landscape for food-related injuries is substantially similar. The basis of liability is typically tort law,¹¹⁰ the legal system that involves civil litigation between private parties about wrongful acts; this can be distinguished from criminal law, in which the government brings suit against a defendant who allegedly committed a crime. An alternative basis of liability for food products would be contract law, where the food has been purchased, and someone who becomes sick after eating the food sues saying that the contract was breached due to the sale of unsafe food.¹¹¹ As noted above, every province and territory in Canada has enacted legislation providing protection for individuals and corporations who donate or distribute food. While most provinces’ laws are framed specifically as food donor protection laws, Quebec’s protections from liability for food donation fall under its general Good Samaritan protections.¹¹²

Under most provincial donation liability protection statutes, “donors” can include anyone involved in donating food. For example, donors could be the individuals or corporations who donate the food to a food bank, someone who donates food directly to individuals, or a food bank itself.

The statutes generally state that donors do not include people or entities that donate food for profit.¹¹³ “Profit” is not defined in the statutes, nor is “donate.” Nova Scotia explicitly states that the food must be given for free, making it clear that no fees can be charged.¹¹⁴ Otherwise, most of the provinces do not expressly state whether liability protections extend if a nominal fee is charged for the food.¹¹⁵ However, guidance on provincial liability protections suggests that the food must be given without any compensation in return; if it is sold, even for a nominal fee, it will not be considered a donation.¹¹⁶ It is unclear whether any loss of liability protection due to charging a fee, even a nominal fee, applies to food banks and food pantries, or solely to the original donor.

Unlike the other provinces’ protections, which apply broadly to any type of individual who donates food and intermediaries such as food banks, Nova Scotia’s law applies only to volunteers, defined as individuals, corporations, or organizations who do not receive compensation such as fees, wages, or a salary for their services and do not charge any fees for the donated food.¹¹⁷

Most of the statutes do not specify to whom the food must be given. Thus, the food could likely be given to a charity or other intermediary, or directly to an individual. Ontario’s legislation explicitly protects both donations to individuals as well as to intermediaries.¹¹⁸ Quebec’s legislation appears to apply to food given to anyone so long as the food was given out of “unselfish motives.”¹¹⁹ Nova Scotia is different from the other provincial statutes in that it explicitly requires that to receive protection the food ultimately be consumed by a person in need, though “in need” is not defined by the law.¹²⁰

To receive protection from liability, in general, the donated food must not be adulterated, rotten, or unfit for human consumption. Yet even if the food was adulterated, rotten, or unfit for consumption, donors can still receive protection if they acted in good faith, meaning they did not intend to harm the recipient and did not act with reckless disregard for the recipient’s safety.¹²¹ While “reckless disregard” is not defined by any of the statutes,¹²² the standard generally means that a court would have to conclude not only that the food donated was unfit for consumption, but also that the donor acted with an extremely high degree of carelessness or actual intent to harm the end recipient.

Most of the provincial statutes have express provisions protecting directors, officers, agents, or employees of corporations or organizations that donate. For example, Ontario’s statute provides that the protections apply to directors, agents, employees, or volunteers of a corporation that donates food or distributes donated food. The protection applies to such individuals so long as the food was not adulterated, rotten or unfit for consumption; if it was, the protection still applies so long as the director, agent, employee, or volunteer did not act beyond his or her scope in their role for the organization and acted in good faith.¹²³ Thus, the protections that apply under these statutes are equally forceful with regard to directors, agents, employees, and volunteers of companies.

For a table comparing the liability protection laws of each province, please see the Appendix.

Criminal Liability Protection

Unlike other countries such as the United States,¹²⁴ Canadian provinces provide protection from only civil, and not criminal liability. However, a finding of criminal liability for food donation would be highly unlikely. This is because a court would need to find that the food donor showed wanton or reckless disregard for the safety or lives of others.¹²⁵ Proving the donor acted in such a manner would be difficult because in criminal cases the government has to prove each element of the crime beyond a reasonable doubt; whereas in civil cases, the standard is usually by a balance of probabilities.¹²⁶ Donors and distributors who exercise ordinary care, or even care that is negligent while not rising to the standard of wanton or reckless disregard for the safety of others, could not be found criminally liable.

Taxes

Reducing food loss and waste results in sizable economic benefits to society, as it minimizes the costs associated with producing, and ultimately discarding, food that is never consumed. Food donation also helps mitigate the

costs of hunger and stimulates the economy: food banks and intermediaries provide jobs or sponsor community development and recipients of donated food are able spend limited financial resources on other basic goods and services.

However, food donation can also be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded, usually at no cost. As a result, it is often less expensive, and easier, for farmers, businesses, and private individuals to throw away, rather than donate, surplus or unmarketable food. Some countries have sought to address this issue by offering tax incentives and removing financial barriers to food donation.

Incentives

Tax incentives create a financial incentive that helps to reframe food donation as a potentially cost-effective and economically beneficial endeavor, or at the very least offset the cost of donation.

Federal law offers a charitable donation tax credit to individuals and a charitable deduction for corporations.¹²⁷ The charitable donation tax credit or deduction apply to anyone who makes a donation, for which no consideration is received, to a registered charity, such as a food bank. Both the credit and deduction apply to goods, such as food,¹²⁸ and are capped at 75% of total net income.¹²⁹

If the donor receives anything of value in exchange for their donation, such as tickets to a show or event, then that value will be deducted from the overall amount of the donation for purposes of calculating the tax credit or deduction. Further, if the donation results in a “material benefit” to the donor, such as advertising for their business, then the transaction is not considered a charitable donation for purposes of the credit or deduction.¹³⁰ As explained below, if the donated items come from a business’s inventory, then the fair market value of these items must be added to the business’s taxable income.¹³¹ For example, if a donor donates inventory items worth \$500 and the donor’s net income (outside of that donation) is \$1,000, then the donor will have to calculate their total taxable net income as \$1,500 before the tax credit or deduction applies.

At the federal level, the tax credit for individual donors is equal to 15% of the first \$200 of total donations.¹³² The tax credit increases in value to 29% of donations over \$200.¹³³ If an individual’s total taxable income exceeds \$214,368, then the credit is 33% of donations over \$200.¹³⁴

By contrast, corporations can claim a deduction for the value of gifts they make to a registered charity, which can result in federal and provincial tax assistance generally ranging from 26% to 31% of the fair market value of these donations, depending on the province.¹³⁵ For purposes of goods such as food, the fair market value is used in determining the total eligible donation amount. The fair market value is defined as the highest price that the good would sell for in the unrestricted marketplace.¹³⁶

A charity that receives a donation of goods such as food, whether from a corporation or from an individual, can issue a donation tax receipt for the fair market value of the gift on the date it was donated.

Each province also has its own charitable donation tax credit that can be applied in addition to the federal incentive.¹³⁷ These tax credits generally apply to any goods that are donated to registered charities, including food goods.¹³⁸

While the federal and provincial charitable donation tax incentives are technically available for donations of food, many donors do not benefit from these incentives, for several reasons. First, claiming the tax incentives is practically burdensome due to the difficulties associated with calculating the fair market value of the food that is donated. Additionally, the fact that the fair market value of donated food derived from a donor’s inventory will count as taxable income may make the charitable donation tax incentives unattractive and essentially valueless to the donor.¹³⁹

Donated food often is not the type of food that would sell in an unrestricted marketplace. For example, some donated food items may be past the “best before/meilleur avant” date indicating food quality, which otherwise may be thrown away by retailers. Further, donated food may also come from an operator’s excess supply that they could not otherwise sell to retailers or consumers. Because these unsaleable food items do not have the same or similar fair market value as food items that would otherwise be sold in the marketplace, food banks may have difficulty in assessing their fair market value when issuing a donation tax receipt.

Even when assessing the fair market value is possible, businesses may still be incentivized to value their donation at zero because of the CRA’s policy on donations of business inventory. Subparagraph 69(1)(b)(ii) of the Income Tax Act states that any person that disposes of something “by way of a gift” is deemed to have received the fair market value of that gift in return.¹⁴⁰ The CRA interprets this to mean that a business that donates inventory to a registered charity must include the fair market value of the donated inventory in computing its taxable income.¹⁴¹ This means that there may not be a charitable donation tax incentive to donating food inventory as compared with throwing it away.

For example, according to the Canada Revenue Agency,¹⁴² the following would occur if a bread retailer donates bread inventory and claims the charitable donation tax deduction:

- A bread retailer sells \$50,000 worth of bread, so its taxable income is \$50,000
- The retailer donates \$1,000 worth of bread and receives a donation tax receipt of \$1,000, so its taxable income is increased to \$51,000 ($\$50,000 + \$1,000 = \$51,000$)
- The retailer’s production costs are \$25,500, so its net income is reduced to \$25,500 ($\$51,000 - \$25,500 = \$25,500$)
- The retailer takes advantage of the charitable donation tax deduction, so its taxable income is reduced to \$24,500 ($\$25,500 - \$1,000 = \$24,500$)

Alternatively, the following would occur if the retailer throws the bread inventory away:¹⁴³

- The retailer sells \$50,000 worth of bread, so its taxable income is \$50,000
- The retailer discards \$1,000 worth of bread, so its taxable income is still \$50,000
- The retailer’s production costs are \$25,500, so its taxable income is reduced to \$24,500 - i.e. the same amount as if it had donated the \$1,000 worth of bread and claimed the charitable donation tax deduction.

When adding in transportation and other costs associated with donating food, as well as administrative costs associated with claiming a charitable donation tax incentive, there may not be much of an incentive to donating food inventory as compared with throwing it away.

In addition to the federal and provincial charitable donation tax incentives, which apply to any donated goods in general, four Canadian provinces (Ontario, Quebec, British Columbia, and Nova Scotia) offer tax credits specific to food donation.¹⁴⁴ All four are structured as non-refundable income tax credits applicable specifically to farmers who donate agricultural products¹⁴⁵ and may be claimed in addition to any other charitable donation tax incentives.¹⁴⁶ Ontario, Nova Scotia, and British Columbia’s credits are worth 25% of the fair market value of the donated agricultural products, and apply to eligible persons who donate agricultural products to an eligible entity.

Quebec has a generous credit of 50% of the fair market value of the donated agricultural products.¹⁴⁷ In addition, unlike Ontario, Nova Scotia, and British Columbia, Quebec’s credit extends beyond agricultural products to processed and value-added products, such as “milk, baby formula, baby food, oil, flour, sugar, pasta, frozen vegetables, baby formula, and prepared meals.”¹⁴⁸ Because of its higher value and broader definition of eligible food products and donors, the Quebec tax credit is considered “the most generous of its kind in Canada.”¹⁴⁹ According to Food Banks Canada, in the first year of the credit’s enactment food banks were able to recover an additional over 460,000 kg of food for those in need, while also encouraging over 100 new farms to generously donate to their local food banks.¹⁵⁰

Barriers

While certain tax schemes may encourage food donations, taxes may also stand as potential deterrents by operating in a way that makes simply discarding the food a cheaper option. In many countries, the Value Added Tax (in Canada, this tax is termed the Goods and Services Tax or GST) presents a financial barrier to donating food.¹⁵¹ However, this does not seem to be the case in Canada. In Canada, the GST is in some provinces harmonized with the provincial sales tax to yield a single tax rate called the Harmonized Sales Tax (HST).¹⁵² The provincial tax rate and the federal GST are separate taxes, but combined into a single, final rate (the HST). The HST is collected at one time and by one entity (The Canada Revenue Agency), with the provincial sales tax portion remitted to the relevant province by the Canada Revenue Agency. The GST is a federal tax that is levied on a good (or “supplies”) at each stage of the supply chain, from the production to the point of sale, whenever goods are supplied to another individual or entity. In Canada, the GST rate is 5%, while the HST rates of different provinces vary. For example, Ontario’s provincial rate is 8%; this, added to the federal GST rate of 5%, results in a total HST rate of 13%. The 13% tax is collected by the Canada Revenue Agency, and 8% is then remitted to Ontario.

Many countries adjust the VAT rates to align with greater policy agendas; for example, countries may apply reduced VAT rates to basic essentials, such as pharmaceuticals, healthcare services, and education. In Canada, this can take the form of either exempting certain supplies from its GST or classifying certain supplies as “zero-rated” such that a 0% rate is applied to these supplies. The value of supplies being zero-rated instead of exempt is that companies can still claim input tax credits for such items on their GST/HST returns.¹⁵³ “Basic groceries” are considered “zero-rated” for purposes of the GST/HST, and include items like meat, fish, poultry, cereal, dairy, eggs, produce, and similar items, but not items like snack foods, candy, soda, or highly processed items.¹⁵⁴

Canada’s GST scheme features an output GST or GST debit and an input GST or GST credit. The output GST is the value added tax that a GST-registered business will charge on its own sale of the good, while the input GST or GST credit is the amount invoiced to a GST-registered business upon its purchases. Each month, a taxpaying individual or entity is entitled to recover the input GSTs invoiced, thereby offsetting the output GSTs that the taxpayer charged for its taxable activities.¹⁵⁵

Businesses are able to claim this credit regardless of whether the food was donated or sold. Thus, Canada’s GST scheme does not appear to act as a barrier to donation, because donors are not responsible for paying the full cost of the input GST for the donated food.¹⁵⁶

Donation Requirements or Food Waste Penalties

Some countries have employed food donation requirements or impose monetary penalties for food sent to the landfill, often known as organic waste bans or waste taxes. These penalties are designed to influence business behavior and promote more sustainable food systems.

It does not appear that Canada has any federal, provincial, or territorial legislation that requires private or public operations to donate excess food, nor does Canada have a federal ban on organic waste being sent to the landfill. However, several provinces and local governments have passed organic waste bans. These organic waste bans place a large emphasis on composting as the preferred method of recovery,¹⁵⁷ but likely still increase diversion of safe excess food via donation.

Nova Scotia was the first province to ban organic waste, introducing the law in 1998.¹⁵⁸ The law, outlined in the province’s Solid Waste-Resource Management Strategy, bans any residence or business from sending food or yard waste to a landfill. The strategy identifies composting as a key component of waste diversion.¹⁵⁹ Prince Edward Island similarly employs a province-wide ban on the disposal of food waste into landfills.¹⁶⁰ Ontario now plans to be the third province to levy penalties on organic waste as part of their goal to be zero-waste by 2022.¹⁶¹ Municipalities have passed similar laws instituting either full or partial bans on organic waste in landfills or

placing other penalties on the disposal of organic waste in landfills. In Vancouver, a 50-percent surcharge is levied on trash haulers if inspectors at a landfill discover that a haul contains over 25 percent organic waste.¹⁶² Other cities have set goals to reduce waste, signaling rising awareness about the importance of decreasing food waste. For example, Montreal’s city action plan bans food retailers from sending food waste to landfills and expressly encourages food donation as an alternative.¹⁶³

Government Grants and Incentives

Grants and incentive programs funded at the federal or provincial level offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives to be insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts. For example, government grants can help food donors and food banks acquire equipment and resources necessary for gleaning, storing, processing, and transporting food for donation. Government funding can also support new innovations and emerging technologies that will make food donation more efficient and sustainable.

The Canadian federal government recently released their Food Policy for Canada, a document to guide Canadians on “food-related decisions and actions” that can improve the health of individuals, the environment, and the economy.¹⁶⁴ The Canadian food policy includes a \$26.3 million fund to provide resources for innovative food waste reduction proposals.¹⁶⁵

Also a part of Canada’s Food Policy,¹⁶⁶ the federal government created the Local Food Infrastructure Fund, a five-year, \$50 million initiative ending March 31, 2024. This initiative offers two different funding streams for organizations seeking to strengthen food systems and increase access to safe and nutritious foods.¹⁶⁷ The first stream, “Infrastructure and Equipment Improvement Projects,” helps small organizations improve infrastructure and purchase equipment directly related to the accessibility of healthy foods within their community.¹⁶⁸ The second stream, “Projects to Strengthen Local Food Systems,” provides funding to larger organizations with the mission to reduce food insecurity in a sustainable manner.¹⁶⁹ These funds could potentially be used to purchase or improve equipment and infrastructure for the storage and transportation of donated food, such as refrigerators and refrigerated trucks.

Miscellaneous

In addition to the relevant laws addressed in the above sections, there may be other federal, municipal, or provincial laws and policies that impact food donation efforts in Canada.

CONCLUSION

This Legal Guide is intended to identify Canada’s current laws, policies and programs that relate to food waste or food donation. While the federal government is primarily responsible for guaranteeing food security and sustainable food systems, food recovery organizations acting in a private capacity can provide an additional social safety net. These organizations can only succeed in doing so, however, if the government establishes supportive legal frameworks. As this guide indicates, gaps in the legal framework, particularly those with respect to food safety, date labeling and tax incentives, have the potential to create unintended obstacles to food donation.

This Legal Guide provides a starting point from which policymakers, private sector actors, and civil society engage may in a dialogue about food loss and waste prevention and the value of food recovery to Canada’s food security, economic stability and environmental sustainability. A separate document produced under The Global Food Donation Policy Atlas Project sets forth policy recommendations to contribute to this discussion.

In the meantime, food donors and food recovery organizations should take into account the laws, policies and legal issues discussed in this Legal Guide when donating food or facilitating the distribution of donated food to those in need. To better understand the regulation of food donation in Canada, donors, intermediaries, and policymakers should investigate the laws identified in this guide and seek additional legal counsel, if necessary.

APPENDIX

PROVINCIAL LIABILITY PROTECTION LAWS

Province	Law	Level of fault for which liability protection does not apply	Express protection to directors, officers, agents, or employees of corporation or organization involved in food donation?	Exceptions to Protection
Alberta	Charitable Donation of Food Act, RSA 2000, c C-8	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
British Columbia	Food Donor Encouragement Act, SBC 1997, c 8	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Manitoba	The Food Donations Act, CCSM c F135	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
New Brunswick	Charitable Donation of Food Act, RSNB 2011, c 124	“Gross negligence”	Yes	None
Newfoundland and Labrador	Donation of Food Act, SNL 1997, c D-26.1	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Northwest Territories	Donation of Food Act, SNWT 2008, c 14	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Nova Scotia	Volunteer Services Act, RSNS 1989, c 497	“Gross negligence” or “willful misconduct” OR “knowledge that the food . . . [was] contaminated or otherwise unfit for human consumption or use at the time of donation or distribution”	No	The Act applies only to “volunteers” defined as “any individual, not in receipt of fees, wages or salary for the services or assistance within the meaning of this Act.”

PROVINCIAL LIABILITY PROTECTION LAWS

Province	Law	Level of fault for which liability protection does not apply	Express protection to directors, officers, agents, or employees of corporation or organization involved in food donation?	Exceptions to Protection
Nunavut	Donation of Food Act, SNU 2013, c 8	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Ontario	Donation of Food Act, 1994, SO 1994, c 19	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Prince Edward Island	Donation of Food Act, RSPEI 1988, c D-13.1	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Quebec	Civil Code of Quebec, CQLR c CCQ-1991 Art.1471	“Intentional or gross fault”	No	Protection applies only to a person who “comes to the assistance of another or, for an unselfish motive, gratuitously disposes of property for the benefit of another.”
Saskatchewan	Donation of Food Act, 1995, The SS 1995, c D-32.01	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”
Yukon	Donation of Food Act, SY 2012, c 11	Intent to injure or “reckless disregard”	Yes	Protection “does not apply to a person who distributes donated food for profit”

ENDNOTES

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- ³ HARVARD LAW SCHOOL FOOD LAW AND POLICY CLINIC, KEEPING FOOD OUT OF THE LANDFILL: POLICY IDEAS FOR STATES AND LOCALITIES 1 (2016), [HTTPS://WWW.CHLPI.ORG/WP-CONTENT/UPLOADS/2013/12/FOOD-WASTE-TOOLKIT_OCT-2016_SMALLER.PDF](https://www.chlpi.org/wp-content/uploads/2013/12/FOOD-WASTE-TOOLKIT_OCT-2016_SMALLER.PDF).
- ⁴ FAO, FOOD WASTAGE FOOTPRINT: IMPACTS ON NATURAL RESOURCES 6 (2011).
- ⁵ *Id.*
- ⁶ FAO, FOOD WASTAGE FOOTPRINT & CLIMATE CHANGE 1 (2015).
- ⁷ *Id.*
- ⁸ FAO, THE STATE OF FOOD SECURITY AND NUTRITION IN THE WORLD: SAFEGUARDING AGAINST ECONOMIC SLOWDOWNS AND DOWNTURNS 6 (2019), <http://www.fao.org/3/ca5162en/ca5162en.pdf> [<https://perma.cc/WS34-9DCZ>].
- ⁹ G.A. Res. 70/1 at 22 (Oct. 21, 2015) (“By 2030, to halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses”).
- ¹⁰ SECOND HARVEST, THE AVOIDABLE CRISIS OF FOOD WASTE: TECHNICAL REPORT, 5, 12, 24 (Jan. 17, 2019), <https://secondharvest.ca/wp-content/uploads/2019/01/Avoidable-Crisis-of-Food-Waste-Technical-Report-January-17-2019.pdf> [hereinafter THE AVOIDABLE CRISIS OF FOOD WASTE].
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- ¹⁴ *Household food security by living arrangement*, STATISTICS CANADA (Mar. 10, 2020), <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1310038501>.
- ¹⁵ Tracy Galloway, *Canada’s northern food subsidy program Nutrition North Canada: a comprehensive program evaluation*, INT’L JOURNAL OF CIRCUMPOLAR HEALTH 2 (2017), <https://www.tandfonline.com/doi/full/10.1080/22423982.2017.1279451>.
- ¹⁶ *Id.*
- ¹⁷ *Id.*
- ¹⁸ *Food Policy for Canada: Everyone at the Table*, AGRICULTURE AND AGRI-FOOD CANADA (2019), [HTTPS://WWW.CANADA.CA/EN/CAMPAIGN/FOOD-POLICY/LEARN-MORE/FOOD-POLICY-FOR-CANADA-EVERYONE-AT-THE-TABLE.HTML](https://www.canada.ca/en/campaign/food-policy/learn-more/food-policy-for-canada-everyone-at-the-table.html).
- ¹⁹ *Id.*
- ²⁰ The term “lost” applies to food that is discarded “during the production, processing, and manufacturing of food or beverages” prior to consumption while “waste” applies to food discarded “during distribution, retail, foodservice, households and during redistribution.” THE AVOIDABLE CRISIS OF FOOD WASTE, *supra* note 10 at 12.
- ²¹ *Id.* at 26. SECOND HARVEST, THE AVOIDABLE CRISIS OF FOOD WASTE: THE ROADMAP 5 (2019) <https://secondharvest.ca/wp-content/uploads/2019/01/Avoidable-Crisis-of-Food-Waste-The-Roadmap-by-Second-Harvest-and-VCMI.pdf>.
- ²² *Food Policy for Canada*, GOV’T OF CANADA (June 2, 2017), <https://www.canada.ca/en/campaign/food-policy.html> [hereinafter *Food Policy for Canada*].
- ²³ THE AVOIDABLE CRISIS OF FOOD WASTE, *supra* note 10; see also VALUE CHAIN MANAGEMENT, “\$27 Billion” Revisited: The Cost of Canada’s Annual Food Waste (Dec. 10, 2014), <https://vcm-international.com/wp-content/uploads/2014/12/Food-Waste-in-Canada-27-Billion-Revisited-Dec-10-2014.pdf>. The \$100 billion figure was arrived at by using the United Nations’ Food and Agricultural Organization’s estimate that the “accumulative cost of associated wastes” is about “two and a half times greater than the ‘face value’ of wasted food.” Value Chain Management, “\$27 Billion” Revisited: The Cost of Canada’s Annual Food Waste 6 (Dec. 10, 2014), <https://vcm-international.com/wp-content/uploads/2014/12/Food-Waste-in-Canada-27-Billion-Revisited-Dec-10-2014.pdf>.
- ²⁴ THE AVOIDABLE CRISIS OF FOOD WASTE, *supra* note 10 at 26.
- ²⁵ *Id.* at 35-36.
- ²⁶ *Id.* at 6.
- ²⁷ *Id.*
- ²⁸ *Id.* at 25.
- ²⁹ ENV’T AND CLIMATE CHANGE CANADA, TAKING STOCK: REDUCING FOOD LOSS AND WASTE IN CANADA (June 2019), <https://www.canada.ca/content/dam/eccc/food-loss-and-waste/Taking%20Stock%20Report%20EN%20Final.pdf>.
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- ³³ *Id.* at 63.
- ³⁴ *Id.* at 70.
- ³⁵ *Id.* at 86.
- ³⁶ See HUNGER COUNT 2019 REPORT, FOOD BANKS CANADA 33 (2019), <https://hungercount.foodbanksCanada.ca/>.
- ³⁷ For suggested policy interventions that will help strengthen Canada’s food recovery framework, please see the FLPC Recommendations for Canada.
- ³⁸ Canadian Constitution Acts 1867; 1982, §5.
- ³⁹ *Id.* at §6.
- ⁴⁰ *Cross-border Comparisons: Canada and Its Legal Framework*, ASS’N OF CORP. COUNCIL (last visited May 12, 2019), <https://www.acc.com/legalresources/quickcounsel/cbccaif.cfm>.
- ⁴¹ *Id.*
- ⁴² *The constitutional distribution of legislative powers*, GOV’T of Canada (last visited May 12, 2019), <https://www.canada.ca/en/intergovernmental-affairs/services/federation/distribution-legislative-powers.html> [hereinafter *The constitutional distribution of legislative powers*].
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- ⁴⁵ See generally *The Legal System of Quebec*, *supra* note 43.
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53 *About our department*, AGRICULTURE AND AGRI-FOOD CANADA (Sept. 19, 2019), <http://www.agr.gc.ca/eng/about-us/?id=1360699683758>.
54 *Id.*
55 ENV'T AND CLIMATE CHANGE CANADA, TAKING STOCK: REDUCING FOOD LOSS AND WASTE IN CANADA 25 (June 2019), <https://www.canada.ca/content/dam/eccc/food-loss-and-waste/Taking%20Stock%20Report%20EN%20Final.pdf>.
56 Food and Drugs Act, R.S.C. 1985, c. F-27.
57 See generally Food and Drugs Act, R.S.C. 1985, c. F-27.
58 *Id.* at c. F-27.
59 See *id.*, at c. F-27 s. 28.
60 Safe Food for Canadians Act, S.C. 2012, c. 24.
61 Safe Food for Canadians Act, S.C. 2012, c. 24.
62 Including necessitating food businesses to implement written preventive control plans for food safety), and traceability (including requiring food businesses to implement methods for tracing food forward to the consumer and backward to the supplier, and to implement food recall procedures.
63 See Constitution Act, 1867.
64 See *id.*
65 See e.g., Donation of Food Act, 1994, S.O. 1994, c. 19.
66 See e.g., Consolidation of Donation of Food Act, S.Nu. 2013, c.8.
67 See *Northwest Territories Food Safety Laws and Requirements*, CANADIAN INST. OF FOOD SAFETY, <https://www.foodsafety.ca/laws-requirements/by-location/nwt> (last visited Mar. 11, 2020) [hereinafter *Food Safety Laws and Requirements*].
68 Donation of Food Act, 1994, S.O. 1994, c. 19.
69 See *Food Safety Laws and Requirements*, *supra* note 67.
70 See Local Food Act, 2013, S.O. 2013, c. 7 (Ontario); Food Bank Donation Tax Credit for Farmers Act, as enacted in R.S.N.S. 1989, c 217 § 50A (Nova Scotia); Farmers' Food Donation Tax Credit Regulation, BC Reg 113/2016 (British Columbia); <https://www.revenuequebec.ca/fr/citoyens/declaration-de-revenus/produire-votre-declaration-de-revenus/comment-remplir-votre-declaration/aide-par-ligne/350-a-3981-credits-dimpot-non-remboursables/ligne-395/> (Quebec); see also FOOD BANKS CANADA, FRESH FOOD TAX CREDIT: AN AGRICULTURAL TAX CREDIT FOR FRESH FOOD DONATIONS 1 (Aug. 2016), https://www.foodbanksCanada.ca/getmedia/cee1bcc2-2353-4ffd-95c5-5aeffe50b955/Fresh-Food-Tax-Credit_Food-Banks-Canada_Aug2016.pdf.aspx?ext=.pdf.
71 See Donation of Food Act, S.N.W.T., 2008, c.14; see also, Donation of Food Act, SY 2012, c.11.
72 See e.g., GOV'T OF NOVA SCOTIA, 2017 NOVA SCOTIA HUNTING & FURHARVESTING: SUMMARY OF REGULATIONS 68 (2017), https://novascotia.ca/natr/hunt/pdf/SummaryBooklet_Sept7.pdf.
73 See *Be Prepared to Handle Hunted Game*, FOOD BANKS CANADA, <https://foodbanksCanada.ca/Safe-Food-Handling/Be-Prepared-to-Handle-Hunted-Game.aspx> (last visited Nov. 10, 2019).
74 See Food and Drugs Act, R.S.C. 1985, c. F-27; Safe Food for Canadians Act, S.C. 2012, c. 24.
75 Food and Drugs Act, R.S.C., 1985 c. F-27.
76 Food and Drugs Act, R.S.C., 1985 c. F-27.
77 Safe Food for Canadians Act, S.C. 2012, c. 24.
78 Safe Food for Canadians Regulations, SOR/2018-108.
79 Safe Food for Canadians Regulations, SOR/2018-108; *Nutrition Labelling*, HEALTH CANADA (June 12, 2015), <https://www.canada.ca/en/health-canada/services/food-nutrition/food-labelling/nutrition-labelling.html>.
80 See, e.g., Food Safety and Quality Act, 2001, S.O. 2001, c. 20.
81 ZERO WASTE COUNCIL, FOOD DONATION AND CIVIL LIABILITY IN CANADA 3 (Apr. 2018), <http://www.nzwc.ca/focus/food/guidelines-for-food-donations/Documents/18-064-FoodDonation-LiabilityDoc-v7WEB.pdf> (noting that “[f]ederal, provincial, and territorial health regulations apply at all times,” in the context of food donation).
82 *Operational Guideline: Food Regulatory Response Guidelines*, CANADIAN FOOD INSPECTION AGENCY (Feb. 13, 2019), <https://inspection.gc.ca/food/compliance-continuum/guidance-for-inspectors/srrp/food-regulatory-response-guidelines/eng/1540500175506/1540500221843>. For information on what to expect at such inspections, see *What to Expect When Inspected*, CANADIAN FOOD INSPECTION AGENCY (Nov. 21, 2018), <https://www.inspection.gc.ca/about-the-cfia/accountability/inspection-modernization/what-to-expect/eng/1515000729834/15150001107571>.
83 HARVARD FOOD LAW & POL'Y CLINIC & NATURAL RES. DEF. COUNCIL, DON'T WASTE, DONATE: ENHANCING FOOD DONATIONS THROUGH FEDERAL POLICY 19 (2017) [hereinafter DON'T WASTE, DONATE].
84 US GAO. DATE LABELS ON PACKAGED FOODS: USDA AND FDA COULD TAKE ADDITIONAL STEPS TO REDUCE CONSUMER CONFUSION, GAO-19-407 (SEPT. 2019), <https://www.gao.gov/assets/710/701238.pdf>.
85 DON'T WASTE, DONATE, *supra* note 83.
86 See COMMISSION FOR ENVTL. COOPERATION, CHARACTERIZATION AND MANAGEMENT OF FOOD LOSS AND WASTE IN NORTH AMERICA 59, (Dec 2017).
87 *But see Guide to the Consumer Packaging and Labelling Act and Regulations*, GOVERNMENT OF CANADA (last visited May 12, 2019) (noting additional requirements for Quebec; namely, that all labels are provided in French).
88 See generally Food and Drugs Act, R.S.C. 1985, c. F-27.
89 See *Food Safety Standards and Guidelines*, *supra* note 48.
90 Food and Drug Regulations, B.24.001-B.25.001.
91 *Id.* at B.01.007(1.1)(b).
92 See Food and Drug Regulations, B.24.001-B.25.001.
93 See *id.*
94 See *id.*
95 There are some exceptions to the 90 day categorization. The following foods are exempt from the requirement to be labelled with a durable life or packaging date: prepackaged fresh fruits and vegetables; prepackaged individual portions of food served by restaurants, airlines or other commercial enterprises with meals or snacks; prepackaged individual servings of food prepared by a commissary and sold in automatic vending machines or mobile canteens; and prepackaged donuts. Food and Drug Regulations, B.01.007(1).

96 *Id.* at B.01.001 (1) “durable life.”
97 *See id.*; *see also* Canada Food Inspection Agency, *Date Marking and Storage Instruction Requirements* (Jan. 2019), INSPECTION.GC.CA, <https://inspection.gc.ca/food-label-requirements/labelling/industry/date-markings-and-storage-instructions/eng/1328032988308/1328034259857?chap=1#s2c1>.
98 *See id.*
99 *Id.* at B.01.007(1.1)(b).
100 Food and Drug Regulations, B.01.007(1.1)(c).
101 *Id.*
102 *Id.* at B.01.007 (3).
103 *See* HARV. FOOD LAW & POL’Y CLINIC & NAT. RES. DEF. COUNCIL, *THE DATING GAME: HOW CONFUSING FOOD DATE LABELS LEAD TO FOOD WASTE IN AMERICA* 17 (2013), <http://www.chlpi.org/wp-content/uploads/2013/12/dating-game-IB.pdf>.
104 *See Date Markings and Storage Instruction Requirements*, GOV’T OF CANADA (Jan. 2019), <http://inspection.gc.ca/food/requirements-and-guidance/labelling/industry/date-markings-and-storage-instructions/eng/1328032988308/1328034259857?chap=1>.
105 *See Food Safety Standards and Guidelines*, *supra* note 48; *see infra*, Liability Protection for Food Donors & Distributors, (last visited May 12, 2019).
106 *See Other Date Marking Systems*, GOV’T OF CANADA, <https://www.inspection.gc.ca/food-label-requirements/labelling/industry/date-markings-and-storage-instructions/eng/1328032988308/1328034259857?chap=4#s15c4>, (last visited Feb. 12, 2020).
107 Getty Stewart, *What You Need to Know About Best Before Dates in Canada*, GETTY STEWART (Nov. 3, 2015), <http://www.gettystewart.com/what-you-need-to-know-about-best-before-dates-in-canada/>.
108 Bob Weber, *Canadians Don’t Understand Best-Before Dates, Which Leads to More Food Waste: Report*, GLOBAL NEWS (May 30, 2018), <https://globalnews.ca/news/4243521/best-before-date-food-waste/>.
109 *‘They’re Still Good’: Winnipeg Food Bank Collects Items Well Past Best-Before Dates*, CTV (Nov. 13, 2018), <https://www.ctvnews.ca/canada/they-re-still-good-winnipeg-food-bank-collects-items-well-past-best-before-dates-1.4174913> (Quoting Winnipeg Harvest executive Keren Taylor-Hughes as saying: “Really, it can be up to 12 to 24 months [past the quality date], and sometimes even longer. We do follow all those items so we do not have any food that we think is not suitable for ourselves to eat and that’s what we use and it actually goes a long way here.”)
110 Under Canadian law in all jurisdictions besides Quebec, torts derive from the common law system and can include intentional and unintentional torts. *See generally* G.H.L. Fridman, *THE LAW OF TORTS IN CANADA* (1989). In cases of food-related injury, the cause of action would likely be negligence, which requires plaintiffs to demonstrate that the donor owed them a duty of care, that the donor’s standard of care fell beyond what a reasonable person would have done in a similar circumstance, that the injury was proximately caused by the donor, and that the plaintiff sustained recoverable damages. *See generally id.*; *R v. Imperial Tobacco Canada Ltd.*, [2011] 3 S.C.R. 45 (Can.). Because Quebec follows the civil law system, liability would derive from the Civil Code of Quebec. Specifically, article 1457 of the Code dictates that “[e]very person has a duty to abide by the rules of conduct incumbent on him, according to the circumstances, usage or law, so as not to cause injury to another. Where he is endowed with reason and fails in this duty, he is liable for any injury he causes to another by such fault and is bound to make reparation for the injury, whether it be bodily, moral or material in nature. He is also bound, in certain cases, to make reparation for injury caused to another by the act, omissions or fault of another person or by the act of things in his custody.” Civil Code of Quebec, S.Q. 1991, c. 64 art. 1457 (Can.).
111 Contract law would only apply if there is a “bargain” involved meaning that the other party paid for the food. But even if food is purchased for a nominal fee, contract law will apply. Only the party who made the contract can enforce it, and thus only the person who paid for the product could sue. This means that if the end recipient did not pay for the food, they cannot sue for breach of contract. *See, e.g.*, *Hunter Engineering Co. v. Syncrude Canada Ltd.*, [1989] 1 S.C.R. 426.
112 *See* Civil Code of Quebec, S.Q. 1991, c. 64 art. 1471 (Can.).
113 *See, e.g.*, *Donation of Food Act, 1994*, SO 1994, c 19.
114 *Volunteer Services Act, RSNS 1989, c 497.*
115 *See Food Donation and Civil Liability in Canada: Companion to the Guidelines to Minimize Wasted Food and Facilitate Food Donations*, NATIONAL ZERO WASTE COUNCIL, (2018), <http://www.nzwc.ca/focus/food/guidelines-for-food-donations/Documents/18-064-FoodDonation-LiabilityDoc-v7WEB.pdf>.
116 *See id.*
117 *Volunteer Services Act, RSNS 1989, c 497.*
118 *Ontario Donation of Food Act (1994).*
119 *Civil Code of Quebec, S.Q. 1991, c. 64 art. 1471 (Can.).*
120 *See Volunteer Services Act, RSNS 1989, c 497.*
121 *See e.g.*, *Donation of Food Act, 1994*, SO 1994, c 19.
122 Interpretation of the term would thus have to come from precedent. Typically, this will mean that the donor acted with a “marked and substantial departure from the norm.” *See, e.g.*, *R. v. J.F.*, 3 S.C.R. 215 (2008).
123 *Donation of Food Act, 1994, S.O. 1994, c. 19.*
124 *See Bill Emerson Good Samaritan Food Donation Act, 42 U.S.C. § 1791 (2012).*
125 *See Canada Criminal Code (R.S.C., 1985, c. C-46) § 219.*
126 *See, e.g.*, *R. v. Avetyan*, 2 S.C.R. 745 (2000); *FH v McDougall*, [2008] 3 S.C.R. 41; *see also* Dep’t of Justice, Civil and Criminal Cases, <https://www.justice.gc.ca/eng/csj-sjc/just/08.html> (last visited Sept. 19, 2019).
127 *See* Income Tax Act, R.S.C. 1985, c. 1 §§ 110.1; 118.1 (5th Supp.); *Charitable Donation Tax Credit Rates*, GOV’T OF CANADA, (Jan. 24, 2017), <https://www.canada.ca/en/revenue-agency/services/charities-giving/giving-charity-information-donors/claiming-charitable-tax-credits/charitable-donation-tax-credit-rates.html> [hereinafter *Charitable Donation Tax Credit Rates*].
128 *See* Income Tax Act, R.S.C. 1985, c. 1 §§ 110.1; 118.1 (5th Supp.); *Charitable Donation Tax Credit Rates*, *supra* note 127.
129 *See* CANADA REVENUE AGENCY, *TAX ADVANTAGES OF DONATING TO CHARITY*, https://www.cchwebsites.com/content/pdf/tax_forms/ca/en/rc4142_en.pdf [hereinafter *TAX ADVANTAGES OF DONATING TO CHARITY*].
130 *See* GOV. OF CANADA, *GIFTS OUT OF INVENTORY*, (Feb. 14, 2011), <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-commentary-018-gifts-inventory.html>.
131 *See* *TAX ADVANTAGES OF DONATING TO CHARITY*, *supra* note 129, at 18-20.
132 *Income Tax Act R.S.C., 1985, c. 1 (5th Supp.) § 118.1; Amended Legislation For the Charitable Donation Tax Credit*, GOV’T OF CANADA (Jan. 24, 2017), <https://www.canada.ca/en/revenue-agency/services/charities-giving/giving-charity-information-donors/claiming-charitable-tax-credits/amended-legislation-charitable-donation-tax-credit.html> [hereinafter *Amended Legislation*]; *see also Charitable Donation Tax Credit Calculator*, CANADA REVENUE AGENCY (Feb. 11, 2018), <https://www.cra-arc.gc.ca/chrts-gvng/dnrs/svngs/clmng1b2-eng.html>.
133 *Id.*
134 *Id.*
135 *TAX ADVANTAGES OF DONATING TO CHARITY*, *supra* note 129, at 10.
136 *Id.* at 8-9.
137 *See Charitable Donation Tax Credit Rates*, *supra* note 127.
138 *See, e.g.*, *TAX ADVANTAGES OF DONATING TO CHARITY*, *supra* note 129.

139 According to the CRA, donations of items from a donor's inventory must be counted toward their taxable income for purposes of the tax credit. See TAX
ADVANTAGES OF DONATING TO CHARITY, *supra* note 129, at 18-20.

140 See Income Tax Act, R.S.C., 1985, c. 1 (5th Supp.) §69.

141 See TAX ADVANTAGES OF DONATING TO CHARITY, *supra* note 129, at 18-20; *Gifts out of Inventory: Policy Commentary*, CANADA REVENUE AGENCY, (Mar. 29, 2000),
<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-commentary-018-gifts-inventory.html>; *Interpretation*
Bulletin IT-297, Gifts in Kind to Charity and Others, CANADA REVENUE AGENCY, (Mar. 21, 1990), available at [https://www.canada.ca/en/revenue-agency/services/](https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/it297r2/archived-gifts-kind-charity-others.html)
[forms-publications/publications/it297r2/archived-gifts-kind-charity-others.html](https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/it297r2/archived-gifts-kind-charity-others.html).

142 TAX ADVANTAGES OF DONATING TO CHARITY, *supra* note 129, at 18-20.

143 The following example was taken from guidance issued by the CRA. TAX ADVANTAGES OF DONATING TO CHARITY, *supra* note 129, at 18-20.

144 See Local Food Act, 2013, S.O. 2013, c. 7 (Ontario); Food Bank Donation Tax Credit for Farmers Act, as enacted in R.S.N.S. 1989, c 217 § 50A (Nova Scotia);
Farmers' Food Donation Tax Credit Regulation, BC Reg 113/2016 (British Columbia); see also FOOD BANKS CANADA, *Fresh Food Tax Credit: An Agricultural Tax*
Credit for Fresh Food Donations 1 (Aug. 2016), [https://www.foodbankscanada.ca/getmedia/cee1bcc2-2353-4ffd-95c5-5aeffe50b955/Fresh-Food-Tax-Credit-
Food-Banks-Canada_Aug2016.pdf.aspx?ext=.pdf. \[hereinafter FRESH FOOD TAX CREDIT\].](https://www.foodbankscanada.ca/getmedia/cee1bcc2-2353-4ffd-95c5-5aeffe50b955/Fresh-Food-Tax-Credit-Food-Banks-Canada_Aug2016.pdf.aspx?ext=.pdf)

145 *Id.*

146 *Id.*

147 *Id.*

148 See FRESH FOOD TAX CREDIT, *supra* note 144 at 4.

149 *Id.*

150 *Id.* at 6.

151 Canada's version of the Value Added Tax is called the Goods and Services Tax and is defined in the Excise Tax Act. See Excise Tax Act, R.S.C. 1985, c. E-15 Part IX.
Additionally, the provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, and Prince Edward Island use a "harmonized sales tax" which is
essentially applied in the same way as the Goods and Services Tax, with the Canada Revenue Agency remitting the applicable portion of the tax to the provinces.
See, e.g., CANADA REVENUE AGENCY, WHAT IS HST? (July 23, 2010), [https://web.archive.org/web/20120218074455/http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-](https://web.archive.org/web/20120218074455/http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/gnrl/hst-tvh/wrks-eng.html)
[tps/gnrl/hst-tvh/wrks-eng.html](https://web.archive.org/web/20120218074455/http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/gnrl/hst-tvh/wrks-eng.html).

152 Currently, only five provinces follow the HST system. See CANADA REVENUE AGENCY, GST/HST CALCULATOR (AND RATES) (Sept. 28, 2016), [https://www.cra-arc.gc.ca/](https://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/rts-eng.html)
[tx/bsnss/tpcs/gst-tps/rts-eng.html](https://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/rts-eng.html).

153 See GOV'T OF CANADA, INPUT TAX CREDITS (Apr. 15, 2019), [https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst-businesses/](https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst-businesses/complete-file-input-tax-credit.html)
[complete-file-input-tax-credit.html](https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst-businesses/complete-file-input-tax-credit.html) [hereinafter INPUT TAX CREDITS]. Input tax credits act essentially as reimbursements of certain GST/HST paid on purchases and
expenses related to a corporation's commercial activities. See *id.*

154 For a full list of items that do not qualify as "basic groceries" (as well as items that do) according to the Canada Revenue Agency, see CANADA REVENUE
AGENCY, BASIC GROCERIES (June 22, 2017), [https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/4-3/basic-groceries.html#](https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/4-3/basic-groceries.html#_Toc155586113)
[Toc155586113](https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/4-3/basic-groceries.html#_Toc155586113).

155 See INPUT TAX CREDITS, *supra* note 153.

156 *Id.*

157 See e.g., *Solid Waste-Resource Management Strategy*, GOV'T OF NOVA SCOTIA (Dec. 10, 2017) <https://novascotia.ca/nse/waste/swrmstrategy.asp>

158 See *id.*

159 *Id.*

160 See Legislative Counsel Office, *Environmental Protection Act Waste Resource Management Regulations*, PRINCE EDWARD ISLAND GOV'T (Aug. 10, 2019), [https://](https://www.princeedwardisland.ca/sites/default/files/legislation/e09-15-environmental_protection_act_waste_resource_management_regulations.pdf)
www.princeedwardisland.ca/sites/default/files/legislation/e09-15-environmental_protection_act_waste_resource_management_regulations.pdf.

161 *Ontario's Food and Organic Waste Framework: Action Plan*, GOV'T OF ONTARIO (May 7, 2019), [https://www.ontario.ca/page/food-and-organic-waste-](https://www.ontario.ca/page/food-and-organic-waste-framework#section-4)
[framework#section-4](https://www.ontario.ca/page/food-and-organic-waste-framework#section-4).

162 See METRO VANCOUVER, TIPPING FEE AND SOLID WASTE REGULATION BYLAW 11 (Mar. 1, 2020), [http://www.metrovancouver.org/boards/Bylaws1/GVSDD_](http://www.metrovancouver.org/boards/Bylaws1/GVSDD_Bylaw_306_Consolidation.pdf)
[Bylaw_306_Consolidation.pdf](http://www.metrovancouver.org/boards/Bylaws1/GVSDD_Bylaw_306_Consolidation.pdf).

163 Alyssa Danigelis, *Montreal To Ban Retailers from Trashing Unsold Food and Clothing*, ENV'T AND ENERGY LEADER (Oct. 18 2019), [https://www.environmentalleader.](https://www.environmentalleader.com/2019/10/montreal-ban-unsold-food-clothing/)
[com/2019/10/montreal-ban-unsold-food-clothing/](https://www.environmentalleader.com/2019/10/montreal-ban-unsold-food-clothing/).

164 See *Food Policy for Canada*, *supra* note 22.

165 See *id.*

166 See *id.*

167 See GOV'T OF CANADA, LOCAL FOOD INFRASTRUCTURE FUND – INFRASTRUCTURE AND EQUIPMENT IMPROVEMENT PROJECTS (Nov. 29, 2019), [http://www.agr.gc.ca/eng/](http://www.agr.gc.ca/eng/programs-and-services/local-food-infrastructure-fund-infrastructure-and-equipment-improvement-projects/?id=1560701480448)
[programs-and-services/local-food-infrastructure-fund-infrastructure-and-equipment-improvement-projects/?id=1560701480448](http://www.agr.gc.ca/eng/programs-and-services/local-food-infrastructure-fund-infrastructure-and-equipment-improvement-projects/?id=1560701480448).

168 *Id.*

169 *Id.*



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