

[Français](#)

Environmental Protection Act

R.S.O. 1990, CHAPTER E.19

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Interpretation

[1. \(1\)](#) In this Act,

“administrative penalty” means a penalty imposed under section 182.3; (pénalité administrative”)

“adverse effect” means one or more of,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,

- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business; (“conséquence préjudiciable”)

“air” means open air not enclosed in a building, structure, machine, chimney, stack or flue; (“air”)

“analyst” means an analyst appointed under this Act; (“analyste”)

“certificate of property use” means a certificate of property use issued under section 168.6; (“certificat d’usage d’un bien”)

“certification date” means, in respect of a record of site condition, a date determined in accordance with the regulations that is not later than the date the record of site condition is filed in the Environmental Site Registry; (“date d’attestation”)

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect; (“contaminant”)

“discharge”, when used as a verb, includes add, deposit, leak or emit and, when used as a noun, includes addition, deposit, emission or leak; (“rejet”, “rejeter”)

“document” includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device; (“document”)

“environmental compliance approval” means an approval issued under Part II.1; (“autorisation environnementale”)

“environmental penalty” means a penalty imposed under section 182.1; (“pénalité environnementale”)

“fiduciary” means an executor, administrator, administrator with the will annexed, trustee, guardian of property or attorney for property, but does not include a trustee in bankruptcy or trustee in bankruptcy representative; (“représentant fiduciaire”)

“fiduciary representative” means, with respect to a fiduciary, an officer, director, employee or agent of the fiduciary, or a lawyer, consultant or other advisor of the fiduciary who is acting on behalf of the fiduciary; (“représentant d’un représentant fiduciaire”)

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding the following definition:

“greenhouse gas” means,

- (a) carbon dioxide,
- (b) methane,
- (c) nitrous oxide,
- (d) hydrofluorocarbons,

- (e) perfluorocarbons,
- (f) sulphur hexafluoride, or
- (g) any other contaminant prescribed as a greenhouse gas by the regulations; (“gaz à effet de serre”)

See: 2009, c. 27, ss. 1, 3 (2).

“inspection” includes an audit, examination, survey, test and inquiry; (“inspection”)

“justice” means a provincial judge or a justice of the peace; (“juge”)

“land” means surface land not enclosed in a building, land covered by water and all subsoil, or any combination or part thereof; (“terrain”)

“Minister” means the Minister of the Environment; (“ministre”)

“Ministry” means the Ministry of the Environment; (“ministère”)

“municipal representative” means, with respect to a municipality, an officer, employee or agent of the municipality, or a lawyer, consultant or other advisor of the municipality who is acting on behalf of the municipality; (“représentant municipal”)

“municipality” includes a local board, as defined in the *Municipal Affairs Act*, and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; (“municipalité”)

“natural environment” means the air, land and water, or any combination or part thereof, of the Province of Ontario; (“environnement naturel”)

“person” includes a municipality as defined in this subsection; (“personne”)

“person responsible” means the owner, or the person in occupation or having the charge, management or control of a source of contaminant; (“personne responsable”)

“place” includes a building, structure, machine, vehicle or vessel; (“lieu”)

“provincial officer” means a person who is designated by the Minister as a provincial officer for the purposes of this Act and the regulations; (“agent provincial”)

“receiver” means a person who has been appointed to take or who has taken possession or control of property pursuant to a mortgage, hypothec, pledge, charge, lien, security interest, encumbrance or privilege or pursuant to an order of a court, and includes a receiver-manager and an interim receiver; (“séquestre”)

“receiver representative” means, with respect to a receiver, an officer, director, employee or agent of the receiver, or a lawyer, consultant or other advisor of the receiver who is acting on behalf of the receiver; (“représentant d’un séquestre”)

“regulated person” means,

(a) a person who belongs to a class of persons prescribed by the regulations and who holds or is required to hold,

(i) an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act, or

(ii) an approval, licence or permit under the *Ontario Water Resources Act*,

(b) a person who has registered or is required to register an activity under subsection 20.21 (1), or

(c) a corporation that belongs to a class of corporations prescribed by the regulations; (“personne réglementée”)

“regulations” means the regulations made under this Act; (“règlements”)

“renewable energy generation facility” has the same meaning as in the *Electricity Act, 1998*; (“installation de production d’énergie renouvelable”)

“renewable energy project” has the same meaning as in the *Green Energy Act, 2009*; (“projet d’énergie renouvelable”)

“secured creditor” means a person who holds a mortgage, hypothec, pledge, charge, lien, security interest, encumbrance or privilege on or against property, but does not include a person who has taken possession or control of the property; (“créancier garanti”)

“secured creditor representative” means, with respect to a secured creditor, an officer, director, employee or agent of the secured creditor, or a lawyer, consultant or other advisor of the secured creditor who is acting on behalf of the secured creditor; (“représentant d’un créancier garanti”)

“source of contaminant” means anything that discharges into the natural environment any contaminant; (“source de contamination”)

“Tribunal” means the Environmental Review Tribunal; (“Tribunal”)

“trustee in bankruptcy representative” means, with respect to a trustee in bankruptcy, an officer, director, employee or agent of the trustee in bankruptcy, or a lawyer, consultant or other advisor of the trustee in bankruptcy who is acting on behalf of the trustee in bankruptcy; (“représentant d’un syndic de faillite”)

“water” means surface water and ground water, or either of them. (“eau”) R.S.O. 1990, c. E.19, s. 1 (1); 1992, c. 1, s. 22; 1998, c. 35, s. 1; 2000, c. 26, Sched. F, s. 12 (1-3); 2001, c. 9, Sched. G, s. 5 (1); 2001, c. 17, s. 2 (1); 2002, c. 17, Sched. F, Table; 2005, c. 12, s. 1 (1-3); 2009, c. 12, Sched. G, s. 1; 2009, c. 19, s. 67 (1); 2010, c. 16, Sched. 7, s. 2 (1, 2).

Idem, Director

[\(2\)](#) In this Act,

“the Director” means a Director appointed under section 5. R.S.O. 1990, c. E.19, s. 1 (2).

Idem, penalties

[\(3\)](#) A municipality that is convicted of an offence under this Act is liable to the penalty provided for a corporation convicted of the offence. R.S.O. 1990, c. E.19, s. 1 (3).

Health or safety

[\(4\)](#) For the purposes of this Act, a danger to existing water supplies that are used for human consumption shall be deemed to be a danger to the health or safety of persons. 2001, c. 17, s. 2 (2).

Secondary discharge within building

[2.](#) A contaminant that is discharged into the air within a building or structure as a result of the discharge of the same or another contaminant in another building or structure shall be deemed to be discharged into the natural environment by the owner or the person

who has the charge, management or control of the contaminant discharged in the other building or structure. R.S.O. 1990, c. E.19, s. 2.

Interpretation, environmental compliance approval

2.1 For the purposes of this Act and the regulations made under it and any other Act and the regulations made under any other Act,

- (a) any reference to an environmental compliance approval includes,
 - (i) a certificate of approval or provisional certificate of approval issued under section 9 or 39 before the day this section comes into force, and
 - (ii) an approval granted under section 53 of the *Ontario Water Resources Act* before the day this section comes into force; and
- (b) any certificate of approval, provisional certificate of approval or approval mentioned in subclause (a) (i) or (ii) may be amended, reviewed, suspended and revoked as if it were an environmental compliance approval. 2010, c. 16, Sched. 7, s. 2 (3).

PART I ADMINISTRATION

Purpose of Act

3. (1) The purpose of this Act is to provide for the protection and conservation of the natural environment. R.S.O. 1990, c. E.19, s. 3.

Extra-provincial environment

(2) No action taken under this Act is invalid by reason only that the action was taken for the purpose of the protection, conservation or management of the environment outside Ontario's borders.

Idem

(3) Subsection (2) applies even if the action was taken before the coming into force of that subsection. 1992, c. 1, s. 23.

Powers and duties of Minister

4. (1) The Minister, for the purposes of the administration and enforcement of this Act and the regulations, may,

- (a) investigate problems of pollution, waste management, waste disposal, litter management and litter disposal;
- (b) conduct research related to contaminants, pollution, waste management, waste disposal, litter management and litter disposal;
- (c) conduct studies of the quality of the natural environment, meteorological studies, and monitoring programs;
- (d) conduct studies of environmental planning designed to lead to the wise use of the natural environment;
- (e) convene conferences and conduct seminars and educational and training programs relating to contaminants, pollution, waste and litter;
- (f) gather, publish and disseminate information relating to contaminants, pollution, waste and litter;

- (g) make grants and loans in such amounts and upon such terms as the Minister considers advisable for,
 - (i) research and training in relation to contaminants, pollution, waste, litter and the reduction of waste and the reuse and recycling of materials that are or could become waste,
 - (ii) planning, operating, developing, improving and enlarging waste management systems, waste disposal sites and programs to encourage the reduction of waste or the reuse or recycling of materials that are or could become waste, and
 - (iii) discontinuing waste management systems or reduction, reuse or recycling programs or closing waste disposal sites;
- (h) establish and operate demonstration and experimental sewage systems under Part VIII, waste management systems, waste disposal sites and programs concerning the reduction of waste or the reuse or recycling of materials that are or could become waste;
- (i) appoint committees to perform such advisory functions as the Minister considers advisable;
- (j) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person relating to the protection or conservation of the natural environment;
- (k) establish and operate, use, alter, enlarge and extend waste management systems or waste disposal sites; and
- (l) discontinue systems and close sites referred to in clause (k). R.S.O. 1990, c. E.19, s. 4; 1992, c. 1, s. 24 (1, 2).

Limitation

(2) A waste disposal site or waste management system shall not be established under clause (1) (k) in a municipality for any function relating to waste from a source within the municipality or to existing waste located within the municipality unless,

- (a) the municipality does not have a waste disposal site or waste management system that is adequate and available to perform that function for the waste; or
- (b) the municipality consents to the establishment of the site or system. 1992, c. 1, s. 24 (3).

Delegation

(3) The Minister may delegate any of his or her powers under subsection (1) to the Director. 1992, c. 1, s. 24 (4).

Appointments

Directors

5. (1) The Minister may in writing appoint as Directors any of the following persons as the Minister considers necessary in respect of the sections of this Act or of the regulations that are set out in the appointments:

1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
2. Subject to the approval of the Lieutenant Governor in Council, any other persons or

the members of any other classes of persons. 2006, c. 35, Sched. C, s. 36 (1).

Analysts and provincial officers

(2) The Minister may in writing appoint as analysts or designate as provincial officers any of the following persons as the Minister considers necessary in respect of the sections of any Act administered by the Minister or of the regulations under such Act that are set out in the appointments or designations:

1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
2. Any other persons or the members of any other classes of persons. 2006, c. 35, Sched. C, s. 36 (1).

Limitation of authority

(3) The Minister, in an appointment or designation under subsection (1) or (2), may limit the authority of a Director, analyst or provincial officer in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. E.19, s. 5 (3).

Provincial officers

(4) A provincial officer is a peace officer for the purpose of enforcing this Act. 1998, c. 35, s. 2.

Investigation and prosecution

(5) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act. 1998, c. 35, s. 2.

PART II GENERAL PROVISIONS

Prohibition, contamination generally

6. (1) No person shall discharge into the natural environment any contaminant, and no person responsible for a source of contaminant shall permit the discharge into the natural environment of any contaminant from the source of contaminant, in an amount, concentration or level in excess of that prescribed by the regulations. R.S.O. 1990, c. E.19, s. 6 (1).

Exception

(2) Subsection (1) does not apply to animal wastes disposed of in accordance with both normal farming practices and the regulations made under the *Nutrient Management Act, 2002*. 2002, c. 4, s. 62 (1).

Control orders

7. (1) When the report of a provincial officer contains a finding that a contaminant discharged into the natural environment is a contaminant the use of which is prohibited by the regulations or is being discharged in contravention of section 14 or the regulations, the Director may issue a control order directed to,

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

Contravention of s. 14

(1.1) No order shall be issued under subsection (1) as a result of a finding that a contaminant is being discharged in contravention of section 14 unless the contravention causes or is likely to cause an adverse effect. 2005, c. 12, s. 1 (4).

Public notice

(2) The Director shall give notice of the control order to every municipality in which the contaminant is discharged and to the public in such manner as the Director considers appropriate. R.S.O. 1990, c. E.19, s. 7.

Stop orders

8. (1) When the Director, upon reasonable and probable grounds, is of the opinion that a source of contaminant is discharging into the natural environment any contaminant that constitutes, or the amount, concentration or level of which constitutes, an immediate danger to human life, the health of any persons, or to property, the Director may issue a stop order directed to,

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

Public notice

(2) The Director shall give notice of the stop order to every municipality in which the contaminant is discharged and to the public in such manner as the Director considers appropriate. R.S.O. 1990, c. E.19, s. 8.

Approval, plant or production process

9. (1) No person shall, except under and in accordance with an environmental compliance approval,

- (a) use, operate, construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water; or
- (b) alter a process or rate of production with the result that a contaminant may be discharged into any part of the natural environment other than water or the rate or manner of discharge of a contaminant into any part of the natural environment other than water may be altered. R.S.O. 1990, c. E.19, s. 9 (1); 2010, c. 16, Sched. 7, s. 2 (4).

(2) Repealed: 2010, c. 16, Sched. 7, s. 2 (5).

Exceptions

(3) Subsection (1) does not apply to,

- (a) routine maintenance carried out on any plant, structure, equipment, apparatus, mechanism or thing;
- (b) equipment for the combustion of fuel, other than waste incinerators, in buildings or structures designed for the housing of not more than three families;
- (c) any equipment, apparatus, mechanism or thing in or used in connection with a building or structure designed for the housing of not more than three families where the only contaminant produced by such equipment, apparatus, mechanism

or thing is sound or vibration;

(d) any plant, structure, equipment, apparatus, mechanism or thing that may be a source of contaminant of a class exempted therefrom by the regulations;

(e) any plant, structure, equipment, apparatus, mechanism or thing used in agriculture;

(f) any motor or motor vehicle that is subject to Part III. R.S.O. 1990, c. E.19, s. 9 (3).

Exception, prescribed activities

(4) Subsection (1) does not apply to a person who is engaging in an activity at a site if the activity has been prescribed by the regulations for the purposes of subsection 20.21 (1), unless one of the following circumstances applies:

1. An environmental compliance approval in respect of the activity engaged in at the site has been issued before the day when a regulation prescribing the activity for the purposes of subsection 20.21 (1) comes into force, and the approval has not ceased to have effect as determined under section 20.17.
2. Subject to subsection (5), the Director has issued an order under section 20.18 in respect of the activity at the site. 2010, c. 16, Sched. 7, s. 2 (6).

Same

(5) If a registration under Part II.2 is in effect in respect of an activity engaged in at a site when the Director issues an order under section 20.18 in respect of the activity, subsection (1) applies only once the Director has removed the registration from the Environmental Activity and Sector Registry established under Part II.2. 2010, c. 16, Sched. 7, s. 2 (6).

(6), (7) Repealed: 2010, c. 16, Sched. 7, s. 2 (6).

(8)-(11) Repealed: 2010, c. 16, Sched. 7, s. 2 (8).

Program for dealing with contamination

10. (1) A person responsible for a source of contaminant may submit to the Director a program to prevent or to reduce and control the discharge into the natural environment of any contaminant from the source of contaminant.

Referral of program

(2) When a program referred to in subsection (1) is submitted to the Director, the Director may, with the consent of the Minister, refer the program to the Environmental Council for its consideration and advice.

Approval of program

(3) The Director may issue a program approval, directed to the person who submitted the program. R.S.O. 1990, c. E.19, s. 10.

Program approvals

11. (1) The Director shall, in a program approval,

- (a) set out the name of the person to whom the approval is directed;
- (b) set out the location and nature of the source of contaminant;
- (c) set out the details of the program; and
- (d) approve the program.

Amendment or revocation

[\(2\)](#) The Director may, by order, amend or revoke a program approval that was issued in error or that no longer adequately provides for the protection and conservation of the natural environment.

Amendment or revocation on consent

[\(3\)](#) The Director may, by order, amend or revoke a program approval with the consent of the person to whom the program approval is directed.

No hearing for amendment or revocation on consent

[\(4\)](#) Subsection 140 (1) does not entitle any person to a hearing in respect of an amendment or revocation of a program approval in accordance with a consent mentioned in subsection (3). R.S.O. 1990, c. E.19, s. 11.

Program approvals, order not to prevent control or stop order

[12.](#) Despite the issue of a program approval or order, when the Director is of the opinion, based upon reasonable and probable grounds, that it is necessary or advisable for the protection or conservation of the natural environment, the prevention or control of an immediate danger to human life, the health of any persons or to property, the Director may issue a stop order or a control order directed to the person responsible. R.S.O. 1990, c. E.19, s. 12.

Ministry to be notified when contamination exceeds permitted level

[13. \(1\)](#) Every person,

- (a) who discharges into the natural environment; or
- (b) who is the person responsible for a source of contaminant that discharges into the natural environment,

any contaminant in an amount, concentration or level in excess of that prescribed by the regulations shall forthwith notify the Ministry of the discharge.

Exception

[\(2\)](#) Subsection (1) does not apply to animal wastes disposed of in accordance with normal farming practices. R.S.O. 1990, c. E.19, s. 13.

Prohibition, discharge of contaminant

[14. \(1\)](#) Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect. 2005, c. 12, s. 1 (5).

Exceptions

[\(2\)](#) Subsection (1) does not apply to,

- (a) a discharge that is authorized under this Act or the *Ontario Water Resources Act*, if the discharge does not cause and is not likely to cause an adverse effect; or
- (b) a discharge of a contaminant that arises when animal wastes are disposed of in accordance with normal farming practices, if the only adverse effect that is caused or that may be caused by the discharge is an adverse effect referred to in clause (a) of the definition of “adverse effect” in subsection 1 (1). 2005, c. 12, s. 1 (5).

When Ministry to be notified, adverse effect

15. (1) Every person who discharges a contaminant or causes or permits the discharge of a contaminant into the natural environment shall forthwith notify the Ministry if the discharge is out of the normal course of events, the discharge causes or is likely to cause an adverse effect and the person is not otherwise required to notify the Ministry under section 92. 2005, c. 12, s. 1 (6).

Same

(1.1) The notice required by subsection (1) shall be given in accordance with any requirements prescribed by the regulations. 2005, c. 12, s. 1 (6).

Exception

(2) Subsection (1) does not apply to animal wastes disposed of in accordance with normal farming practices. R.S.O. 1990, c. E.19, s. 15.

Application of Part not restricted

16. Unless otherwise required by the context, the provisions of this Part also apply to the subject-matter of the individual Parts of this Act. R.S.O. 1990, c. E.19, s. 16.

Remedial orders

17. Where any person causes or permits the discharge of a contaminant into the natural environment, so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured, damaged or endangered, the Director may order the person to,

- (a) repair the injury or damage;
- (b) prevent the injury or damage; or
- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide temporary or permanent alternate water supplies. R.S.O. 1990, c. E.19, s. 17; 2005, c. 12, s. 1 (7).

Order by Director re preventive measures

18. (1) The Director, in the circumstances mentioned in subsection (2), by a written order may require a person who owns or owned or who has or had management or control of an undertaking or property to do any one or more of the following:

1. To have available at all times, or during such periods of time as are specified in the order, the equipment, material and personnel specified in the order at the locations specified in the order.
2. To obtain, construct and install or modify the devices, equipment and facilities specified in the order at the locations and in the manner specified in the order.
3. To implement procedures specified in the order.
4. To take all steps necessary so that procedures specified in the order will be implemented in the event that a contaminant is discharged into the natural environment from the undertaking or property.
5. To monitor and record the presence or discharge of a contaminant specified in the order and to report thereon to the Director.
6. To study and to report to the Director on,
 - i. the presence or discharge of a contaminant specified in the order,
 - ii. the effects of the presence or discharge of a contaminant specified in the

order,

- iii. measures to control the presence or discharge of a contaminant specified in the order,
- iv. the natural environment into which a contaminant specified in the order may be discharged.

7. To develop and implement plans to,

- i. reduce the amount of a contaminant that is discharged into the natural environment,
- ii. prevent or reduce the risk of a spill of a pollutant within the meaning of Part X, or
- iii. prevent, decrease or eliminate any adverse effects that result or may result from a spill of a pollutant within the meaning of Part X or from any other discharge of a contaminant into the natural environment, including,
 - A. plans to notify the Ministry, other public authorities and members of the public who may be affected by a discharge, and
 - B. plans to ensure that appropriate equipment, material and personnel are available to respond to a discharge.

8. To amend a plan developed under paragraph 7 or section 91.1 in the manner specified in the order. R.S.O. 1990, c. E.19, s. 18 (1); 2005, c. 12, s. 1 (8, 9).

Grounds for order

(2) The Director may make an order under this section if the Director is of the opinion, on reasonable and probable grounds, that the requirements specified in the order are necessary or advisable so as,

- (a) to prevent or reduce the risk of a discharge of a contaminant into the natural environment from the undertaking or property; or
 - (b) to prevent, decrease or eliminate an adverse effect that may result from,
 - (i) the discharge of a contaminant from the undertaking, or
 - (ii) the presence or discharge of a contaminant in, on or under the property.
- 2005, c. 12, s. 1 (10).

Instruments under Act, who is bound

Successors and assigns

19. (1) A certificate of property use, an order or approval of a court, the Minister, the Director or a provincial officer under this Act or a notice of the Director or a provincial officer under section 157.4 is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed. 2001, c. 17, s. 2 (4); 2010, c. 16, Sched. 7, s. 2 (9).

Limitation

(2) If, pursuant to subsection (1), an order is binding on an executor, administrator, administrator with the will annexed, guardian of property or attorney for property, their obligation to incur costs to comply with the order is limited to the value of the assets they hold or administer, less their reasonable costs of holding or administering the assets. 2001,

c. 17, s. 2 (4).

Receivers and trustees

(3) A certificate of property use, an order or approval of a court, the Minister, the Director or a provincial officer under this Act or a notice of the Director or a provincial officer under section 157.4 that relates to property is binding on a receiver or trustee that holds or administers the property. 2001, c. 17, s. 2 (4); 2010, c. 16, Sched. 7, s. 2 (10).

Limitation

(4) If, pursuant to subsection (3), an order or a notice of the Director or a provincial officer under section 157.4 is binding on a trustee, other than a trustee in bankruptcy, the trustee's obligation to incur costs to comply with the order is limited to the value of the assets held or administered by the trustee, less the trustee's reasonable costs of holding or administering the assets. 2001, c. 17, s. 2 (4); 2010, c. 16, Sched. 7, s. 2 (11).

Exception

(5) Subsection (3) does not apply to an order that relates to property held or administered by a receiver or trustee in bankruptcy if,

- (a) within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property; or
- (b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 2 (4).

Extension of period

(6) The Director may extend the 10-day period for giving notice under clause (5) (a), before or after it expires, on such terms and conditions as he or she considers appropriate. 2001, c. 17, s. 2 (4).

Notice under subs. (5)

(7) Notice under clause (5) (a) or (b) must be given in the manner prescribed by the regulations. 2001, c. 17, s. 2 (4).

Holder

(8) For the purposes of this Act, a person who is bound by a certificate of property use or approval under this section shall be deemed to be the holder of the certificate or approval. 2001, c. 17, s. 2 (4).

(9)-(11) Repealed: 2010, c. 16, Sched. 7, s. 2 (12).

Minister to publish information

(12) The Minister shall publish, by electronic or other means, the following information for the purpose of making it available to the public:

1. Information in respect of environmental compliance approvals issued after this subsection comes into force.
2. Other information that relates to any other instrument created or issued under this Act or the *Ontario Water Resources Act* and that is specified in a regulation made by the Minister. 2010, c. 16, Sched. 7, s. 2 (13).

(13) Repealed: 2010, c. 16, Sched. 7, s. 2 (14).

Crown bound

20. This Act is binding upon the Crown. R.S.O. 1990, c. E.19, s. 20.

PART II.1 ENVIRONMENTAL COMPLIANCE APPROVALS

Definitions

20.1 In this Part,

“sewage works” has the same meaning as in the *Ontario Water Resources Act*; (“station d’épuration des eaux d’égout”)

“waste disposal site” has the same meaning as in section 25; (“lieu d’élimination des déchets”)

“waste management system” has the same meaning as in section 25. (“système de gestion des déchets”) 2010, c. 16, Sched. 7, s. 2 (15).

APPLICATION FOR APPROVAL

Application for approval

20.2 (1) A person may apply to the Director for approval to engage in an activity mentioned in subsection 9 (1) or 27 (1) of this Act or subsection 53 (1) of the *Ontario Water Resources Act* if the activity has not been prescribed by the regulations for the purposes of subsection 20.21 (1). 2010, c. 16, Sched. 7, s. 2 (15).

Director’s order

(2) Despite subsection (1), a person may apply to the Director for approval to engage at a site in an activity that has been prescribed by the regulations for the purposes of subsection 20.21 (1) if the Director issues an order under section 20.18 in respect of the activity at the site. 2010, c. 16, Sched. 7, s. 2 (15).

Discontinuation of application, Part II.2 activity

(3) If an application for approval to engage in an activity is submitted to the Director and no decision has been made in respect of the application before the day on which a regulation prescribing the activity for the purposes of subsection 20.21 (1) comes into force, the part of the application relating to the activity is discontinued on the day that the regulation comes into force, unless the Director has issued an order under section 20.18 in respect of the activity. 2010, c. 16, Sched. 7, s. 2 (15).

Form

(4) The application shall be prepared and submitted to the Director in accordance with any requirements prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (15).

Multiple activities at site

(5) If a person engages in or proposes to engage in more than one activity mentioned in subsection 9 (1) or 27 (1) of this Act or subsection 53 (1) of the *Ontario Water Resources Act* at a site and no environmental compliance approval has previously been issued in respect of any activity at the site, the application may be in respect of all of the activities unless the Director requires otherwise. 2010, c. 16, Sched. 7, s. 2 (15).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is repealed and the following substituted:

Multiple activities at site

[\(5\)](#) If a person engages in or proposes to engage in more than one activity mentioned in subsection 9 (1) or 27 (1) of this Act or subsection 53 (1) of the *Ontario Water Resources Act* at a site and no environmental compliance approval has previously been issued in respect of any activity at the site, the application shall be in respect of all of the activities unless the Director permits otherwise. 2010, c. 16, Sched. 7, s. 2 (16).

See: 2010, c. 16, Sched. 7, ss. 2 (16), 9 (2).

Multiple sites

[\(6\)](#) If a person applies for approval to engage in an activity that is to be engaged in at more than one site, the application may be in respect of the activity at more than one site unless the Director requires otherwise. 2010, c. 16, Sched. 7, s. 2 (15).

Sewage works

[\(7\)](#) If a person applies for approval to use, operate, establish, alter, extend or replace a sewage works, the application may also be for approval to engage in any activity that is mentioned in subsection 9 (1) or 27 (1) that is related to the sewage works unless the Director requires otherwise. 2010, c. 16, Sched. 7, s. 2 (15).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (7) is repealed and the following substituted:

Sewage works

[\(7\)](#) If a person applies for approval to use, operate, establish, alter, extend or replace a sewage works, the application shall also be for approval to engage in any activity that is mentioned in subsection 9 (1) or 27 (1) that is related to the sewage works unless the Director permits otherwise. 2010, c. 16, Sched. 7, s. 2 (17).

See: 2010, c. 16, Sched. 7, ss. 2 (17), 9 (2).

Waste management systems

[\(8\)](#) If a person applies for approval to use, operate, establish, alter, enlarge or extend a waste management system, the application may also be for approval to engage in any activity that is mentioned in subsection 9 (1) of this Act or subsection 53 (1) of the *Ontario Water Resources Act* that is related to the waste management system unless the Director requires otherwise. 2010, c. 16, Sched. 7, s. 2 (15).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (8) is repealed and the following substituted:

Waste management systems

[\(8\)](#) If a person applies for approval to use, operate, establish, alter, enlarge or extend a waste management system, the application shall also be for approval to engage in any activity that is mentioned in subsection 9 (1) of this Act or subsection 53 (1) of the *Ontario Water Resources Act* that is related to the waste management system unless the Director permits otherwise. 2010, c. 16, Sched. 7, s. 2 (18).

See: 2010, c. 16, Sched. 7, ss. 2 (18), 9 (2).

Transition

[\(9\)](#) An application submitted to the Director for approval to engage in activities mentioned in section 9 or 27 of this Act or section 53 of the *Ontario Water Resources Act*

before the day this section comes into force is,

- (a) continued as an application for approval under subsection (1) if the application complies with any requirements prescribed by the regulations for the purposes of this subsection, unless the Director permits otherwise; or
- (b) discontinued. 2010, c. 16, Sched. 7, s. 2 (15).

Powers of Director

20.3 (1) After consideration of an application for approval under section 20.2 in respect of one or more activities, the Director may,

- (a) issue or refuse to issue an environmental compliance approval in respect of one or more of the activities;
- (b) if the Director issues an environmental compliance approval,
 - (i) impose terms and conditions in the approval, and
 - (ii) incorporate any environmental compliance approvals that are in effect into the new approval and revoke the approvals that have been incorporated;
- (c) amend an environmental compliance approval that is in effect and impose, alter or revoke terms and conditions or expand the scope of the approval to other activities or sites;
- (d) revoke an environmental compliance approval in whole or in part, with or without issuing a new approval; and
- (e) suspend an environmental compliance approval in whole or in part. 2010, c. 16, Sched. 7, s. 2 (15).

Limitation

(2) No amendment to an environmental compliance approval may be made if the activity in respect of which the approval has been issued has been prescribed by the regulations for the purposes of subsection 20.21 (1), unless an order under section 20.18 has been issued in respect of the activity and the order includes the information set out in clause 20.18 (2) (b). 2010, c. 16, Sched. 7, s. 2 (15).

APPLICATION FOR REVIEW

Application for review

20.4 (1) A holder of an environmental compliance approval may apply for a review of the approval. 2010, c. 16, Sched. 7, s. 2 (15).

Mandatory review

(2) A holder of an environmental compliance approval shall apply for a review of the approval,

- (a) on or before the date specified by the Director, if the Director has specified a date under section 20.12; or
- (b) if no date has been specified by the Director, on or before the date prescribed under subsection 176 (2.3). 2010, c. 16, Sched. 7, s. 2 (15).

Form

(3) An application for review shall be prepared and submitted to the Director in accordance with any requirements prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2

(15).

Approval remains in effect

(4) Despite subsections (1) and (2), an environmental compliance approval remains in effect unless it is suspended or revoked by the Director. 2010, c. 16, Sched. 7, s. 2 (15).

Powers of Director

20.5 After consideration of an application for a review of an environmental compliance approval, the Director may,

- (a) amend the approval and impose, alter or revoke terms and conditions or expand the scope of the approval to other activities or sites;
- (b) revoke the approval in whole or in part, with or without issuing a new approval;
- (c) issue a new environmental compliance approval and exercise the powers mentioned in clause 20.3 (1) (b);
- (d) suspend the approval in whole or in part; or
- (e) give notice that no changes have been made to the approval as a result of the review. 2010, c. 16, Sched. 7, s. 2 (15).

TERMS AND CONDITIONS

Terms and conditions

20.6 (1) In imposing terms and conditions in an environmental compliance approval, the Director may include terms and conditions in respect of, but not limited to,

- (a) future specified alterations, extensions, enlargements or replacements, including future specified alterations, extensions, enlargements or replacements to be carried out by persons prescribed by the regulations;
- (b) operational parameters, including maximum rates of production, process limits, performance limits and parameters relating to equipment and infrastructure; and
- (c) alterations, extensions, enlargements or replacements to be carried out within the operational parameters mentioned in clause (b), including alterations, extensions, enlargements or replacements to be carried out within the operational parameters by persons prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (15).

Same

(2) If the Director imposes terms and conditions mentioned in clause (1) (a), (b) or (c) in respect of alterations, extensions, enlargements or replacements to be carried out by persons prescribed by the regulations, the environmental compliance approval shall be deemed to include a condition that the holder of the approval must give the persons notice of the terms and conditions in the approval. 2010, c. 16, Sched. 7, s. 2 (15).

Application of *Environmental Assessment Act*

(3) Subsection 12.2 (2) of the *Environmental Assessment Act* does not prohibit a Director from imposing terms and conditions mentioned in clause (1) (a), (b) or (c) in an environmental compliance approval, but the other applicable provisions of that Act continue to apply to any future alterations, extensions, enlargements or replacements that the Director may approve in an approval. 2010, c. 16, Sched. 7, s. 2 (15).

Prescribed terms and conditions

(4) An environmental compliance approval is subject to any terms and conditions

prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (15).

Associated works

[\(5\)](#) The Director may, in an environmental compliance approval in respect of any plant, structure, equipment, apparatus, mechanism, thing, waste management system, waste disposal site or sewage works that was established before the day this section comes into force, impose terms and conditions in respect of any associated structure, equipment, apparatus, mechanism, thing or works. 2010, c. 16, Sched. 7, s. 2 (15).

GENERAL POWERS AND DUTIES OF DIRECTOR

Powers of Director, general

[20.7 \(1\)](#) In exercising any of his or her powers under this Part, whether on his or her own initiative or on application, the Director may exercise the power if he or she considers it to be necessary for the purposes of,

- (a) this Act, if the power is exercised in respect of an activity for which an environmental compliance approval is required under section 9 or 27; or
- (b) the *Ontario Water Resources Act*, if the power is exercised in respect of an activity for which an environmental compliance approval is required under section 53 of that Act. 2010, c. 16, Sched. 7, s. 2 (15).

Past conduct

[\(2\)](#) The Director may suspend, revoke or refuse to issue an environmental compliance approval if the past conduct of the holder of the approval or the applicant, or, if the holder or applicant is a corporation, of its officers and directors, affords reasonable grounds to believe that the person will not engage in the activity in accordance with this Act, the *Ontario Water Resources Act* or the regulations made under either of those Acts. 2010, c. 16, Sched. 7, s. 2 (15).

Director may require information

[20.8](#) The Director may require a person who submits an application under this Part to submit any plans, specifications, technical reports or other information and to carry out and report on any tests or experiments relating to any activity in respect of which the application is made. 2010, c. 16, Sched. 7, s. 2 (15).

Director may require consultation

[20.9](#) The Director may require a person who submits an application under this Part to consult with the persons specified by the Director in a manner specified by the Director before the Director makes a decision in respect of the application. 2010, c. 16, Sched. 7, s. 2 (15).

Combined approval

[20.10](#) The Director may issue an environmental compliance approval in respect of one or more activities at one or more sites. 2010, c. 16, Sched. 7, s. 2 (15).

Sewage works, revocation

[20.11](#) If the Director issues an environmental compliance approval to use, operate, establish, alter, extend or replace a sewage works at a site, the Director may, in issuing the approval, provide in the approval that some or all of the approvals previously issued in respect of the sewage works are revoked on the day when the new environmental compliance approval is issued, and if the Director so provides, those approvals are revoked on that day. 2010, c. 16, Sched. 7, s. 2 (15).

Director may specify review date

20.12 (1) In issuing, amending or reviewing an environmental compliance approval, the Director may specify a date in the approval by which an application for review of the approval must be submitted. 2010, c. 16, Sched. 7, s. 2 (15).

Combined review

(2) The Director may, by written notice, require a person who submits an application under this Part in respect of an activity at a site to submit an application for a review by a date specified by the Director of one or more environmental compliance approvals in respect of the same site that have been issued and the person shall comply with the requirement. 2010, c. 16, Sched. 7, s. 2 (15).

Same

(3) In the event of a conflict between dates mentioned in subsections (1) and (2), the date specified under subsection (2) applies. 2010, c. 16, Sched. 7, s. 2 (15).

Exercise of powers on Director's initiative

20.13 The Director may, on his or her own initiative,

- (a) alter or revoke terms and conditions of an environmental compliance approval after it has been issued;
- (b) impose new terms and conditions in an environmental compliance approval; or
- (c) suspend or revoke all or part of an environmental compliance approval. 2010, c. 16, Sched. 7, s. 2 (15).

Consideration of applications

20.14 (1) Subject to subsection (2), the Director shall consider an application submitted to him or her under this Part. 2010, c. 16, Sched. 7, s. 2 (15).

Exception

(2) The Director is not required to consider an application that has not been prepared and submitted in accordance with any requirements prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (15).

HEARINGS

Hearings required by Director

20.15 (1) The Director may, before making a decision on an application under this Part, require the Tribunal, by written notice, to hold a hearing with respect to the application or a matter that relates to the application. 2010, c. 16, Sched. 7, s. 2 (15).

Notice of hearing

(2) If a hearing is required under subsection (1), at least 15 days notice shall be given to any persons specified by the Tribunal and in such manner as the Tribunal may direct. 2010, c. 16, Sched. 7, s. 2 (15).

Same

(3) Upon receipt of a notice from the Director under subsection (1), the Tribunal shall hold a hearing. 2010, c. 16, Sched. 7, s. 2 (15).

Proposed decision

(4) If the Director requires the Tribunal to hold a hearing in respect of a matter that relates to the application, the Director shall inform the Tribunal of decisions that the Director proposes to make on matters not referred to the Tribunal in connection with the

application. 2010, c. 16, Sched. 7, s. 2 (15).

Parties

(5) The applicant for approval under this Part, the Director and any other persons specified by the Tribunal shall be parties to the hearing. 2010, c. 16, Sched. 7, s. 2 (15).

Notice of decision

(6) The Tribunal shall serve notice of its decision, together with reasons, on the parties to the hearing, and the Director shall implement the decision. 2010, c. 16, Sched. 7, s. 2 (15).

Costs

(7) The Tribunal may award the costs of a proceeding under this section. 2010, c. 16, Sched. 7, s. 2 (15).

Payment

(8) The Tribunal may order to whom and by whom the costs are to be paid. 2010, c. 16, Sched. 7, s. 2 (15).

Assessment

(9) The Tribunal may fix the amount of the costs or direct that the amount be assessed and it may direct the scale according to which they are to be assessed and by whom they are to be assessed. 2010, c. 16, Sched. 7, s. 2 (15).

Considerations not limited

(10) In awarding costs, the Tribunal is not limited to the considerations that govern awards of costs in any court. 2010, c. 16, Sched. 7, s. 2 (15).

Application

(11) Subsections (7) to (10) apply despite sections 17.1 and 32 of the *Statutory Powers Procedure Act*. 2010, c. 16, Sched. 7, s. 2 (15).

Transition

(12) If, before the day subsection 2 (23) of Schedule 7 to the *Open for Business Act, 2010* comes into force, a hearing has been required by the Director under subsection 30 (1) or 32 (1) of this Act, as those provisions read immediately before that subsection came into force, the Director's notice shall be deemed to have been given under subsection (1) and the hearing shall be held under this section. 2010, c. 16, Sched. 7, s. 2 (15).

Appeal from decision of Tribunal

20.16 (1) A party to a proceeding under this Part before the Tribunal may appeal from its decision,

- (a) on a question of law, to the Divisional Court; and
- (b) on a question other than a question of law, to the Minister. 2010, c. 16, Sched. 7, s. 2 (15).

Same

(2) An appeal under clause (1) (b) shall be made in writing within 30 days after the party appealing the decision receives the decision of the Tribunal. 2010, c. 16, Sched. 7, s. 2 (15).

Powers of Minister on appeal

(3) In an appeal under clause (1) (b), the Minister shall confirm, alter or revoke the decision of the Tribunal, substitute for the decision of the Tribunal such decision as he or she considers appropriate or, by notice in writing to the Tribunal, require it to hold a new

hearing with respect to all or any part of the subject matter of the decision. 2010, c. 16, Sched. 7, s. 2 (15).

APPROVALS RELATING TO ACTIVITIES PRESCRIBED FOR THE PURPOSES OF PART II.2

When approval ceases to have effect

20.17 An environmental compliance approval ceases to apply in respect of an activity at a site on the earlier of,

- (a) the date, as set out in a confirmation of registration provided by the Director under Part II.2, on which a registration is in effect in respect of the activity at the site; and
- (b) the date prescribed by the regulations in respect of the activity for the purposes of this section. 2010, c. 16, Sched. 7, s. 2 (15).

Director's order

20.18 (1) The Director may issue an order to a person who is engaging in or who proposes to engage in an activity at a site, stating that Part II.2 of the Act does not apply in respect of the activity at the site. 2010, c. 16, Sched. 7, s. 2 (15).

Continuation of approval

(2) If an environmental compliance approval is in effect when the Director issues an order under subsection (1), the Director may specify in the order that,

- (a) the approval continues to apply; and
- (b) the approval may be amended on application under subsection 20.2 (1). 2010, c. 16, Sched. 7, s. 2 (15).

PART II.2 REGISTRATIONS

Interpretation

20.19 In this Part,

“registration” means a registration in the Registry; (“enregistrement”)

“Registry” means the registry established under subsection 20.20 (1). (“Registre”) 2010, c. 16, Sched. 7, s. 2 (19).

Registry

20.20 (1) The Director shall establish, maintain and operate a public registry known in English as the Environmental Activity and Sector Registry and in French as Registre environnemental des activités et des secteurs. 2010, c. 16, Sched. 7, s. 2 (19).

Purposes

(2) The purposes of the Registry are the following:

1. To allow persons to register activities prescribed by the regulations for the purposes of subsection 20.21 (1).
2. To provide public access to information contained in the registrations and other information filed in the Registry.
3. Such other purposes as may be prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (19).

Delegation agreement

(3) Section 168.9 applies, with necessary modifications, in respect of the Registry and despite subsection 180 (2), no action or other proceeding shall be commenced against the Crown in right of Ontario, a public servant employed under Part III of the *Public Service of Ontario Act, 2006*, a person or body to whom powers and duties of the Director are delegated under section 168.9 or an employee of a person or body to whom powers and duties of the Director are delegated under section 168.9 arising from any inaccuracy contained in a registration. 2010, c. 16, Sched. 7, s. 2 (19).

Prohibition, prescribed activities

20.21 (1) Subject to subsections (2), (3) and (4), no person shall engage in an activity at a site if the activity has been prescribed by the regulations for the purposes of this subsection unless,

- (a) the person has registered the activity in the Registry in accordance with the regulations;
 - (b) the Director has provided the person with a confirmation of registration in respect of the activity;
 - (c) the person engages in the activity in accordance with the regulations; and
 - (d) the registration is not suspended and has not been removed from the Registry.
- 2010, c. 16, Sched. 7, s. 2 (19).

Exception, order under s. 20.18

(2) Subject to subsection (3), subsection (1) does not apply if the Director has issued an order under section 20.18 in respect of the activity and the order has not been revoked. 2010, c. 16, Sched. 7, s. 2 (19).

Same, transition

(3) If a registration is in effect in respect of the activity when the Director issues an order under section 20.18 in respect of the activity, subsection (1) applies until the Director removes the registration from the Registry in accordance with clause 20.23 (1) (e). 2010, c. 16, Sched. 7, s. 2 (19).

Transition

(4) If an environmental compliance approval has been issued in respect of an activity before the day when a regulation prescribing the activity for the purposes of subsection (1) comes into force, subsection (1) does not apply to the holder of the approval until the day the approval ceases to apply to the activity, as determined in accordance with section 20.17. 2010, c. 16, Sched. 7, s. 2 (19).

Mobile activity

(5) If the activity engaged in has been prescribed by the regulations for the purposes of this subsection, a person is not required to register the activity in respect of a specific site, subject to any conditions prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (19).

Director to provide confirmation

20.22 (1) If a person registers an activity in the Registry and pays the required fee and provides the required financial assurance, if any, the Director shall provide the person with a confirmation of registration, which may be provided electronically. 2010, c. 16, Sched. 7, s. 2 (19).

Retention of confirmation and maintenance of registration

(2) A person who engages in a registered activity shall ensure that the confirmation of

registration is retained and that,

- (a) the registration is maintained and updated in accordance with the regulations; and
- (b) the registration includes any information, reports, records or documents as may be required by the Director or as may be prescribed by the regulations. 2010, c. 16, Sched. 7, s. 2 (19).

Complete and accurate information, etc.

[\(3\)](#) If the Director is not satisfied that any information, reports, records or documents included in or filed with a registration are complete or accurate, the Director may require the person engaging in the registered activity to file information, reports, records or documents that are complete and accurate and the person shall comply with the requirement. 2010, c. 16, Sched. 7, s. 2 (19).

Suspension or removal of registration

[20.23 \(1\)](#) The Director may suspend a registration in respect of an activity or remove the registration from the Registry if,

- (a) the person who is engaging in the activity is in contravention of this Act, the *Ontario Water Resources Act* or the regulations made under either of those Acts;
- (b) the confirmation of registration was provided on the basis of mistaken, false or inaccurate information;
- (c) the person who is engaging in the activity requests that its registration be removed;
- (d) the person who was engaging in the activity is no longer doing so;
- (e) the Director has issued an order under section 20.18 to the person who is engaging in the activity and,
 - (i) if no application for approval has been made under Part II.1,
 - (A) the period during which a hearing may be required in respect of the order has lapsed, or
 - (B) if a hearing has been required, the decision of the Tribunal has been issued, all rights of appeal have been exhausted and the order of the Director has not been revoked, or
 - (ii) if an application for approval under Part II.1 has been made, the decision by the Director in respect of the application has been made; or
- (f) the registration is obsolete. 2010, c. 16, Sched. 7, s. 2 (19).

Order

[\(2\)](#) If the Director suspends or removes a registration on the grounds set out in clause (1) (a), (b) or (d), the Director shall do so by order and shall serve the order together with written reasons on the person who is or was engaging in the activity. 2010, c. 16, Sched. 7, s. 2 (19).

End of suspension

[\(3\)](#) The Director may end a suspension of a registration if the Director is satisfied that the reasons for the suspension no longer exist. 2010, c. 16, Sched. 7, s. 2 (19).

Filing of notice or order in Registry

[20.24](#) Any person who gives a notice or issues an order under this Part or a notice

under section 157.4 shall file a copy of the notice or order in the Registry. 2010, c. 16, Sched. 7, s. 2 (19).

PART III MOTORS AND MOTOR VEHICLES

Definitions, Part III

21. In this Part,

“motor” means an internal combustion engine used in a vehicle; (“moteur”)

“motor vehicle” means a vehicle that uses or incorporates a motor as a source of power. (“véhicule automobile”) R.S.O. 1990, c. E.19, s. 21.

Motors and motor vehicles, environmental controls

Sale of motor vehicle that does not comply with regulations

22. (1) No person shall sell, or offer, expose or advertise for sale, a motor or motor vehicle that does not comply with the regulations.

Where system or device installed on motor vehicle

(2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the discharge of any contaminant, no person shall sell, or offer, expose or advertise for sale, such motor or motor vehicle unless the motor or motor vehicle has such system or device so installed, attached or incorporated and such system or device, when the motor or motor vehicle is operating, complies with the regulations. R.S.O. 1990, c. E.19, s. 22 (1, 2).

Repair or replacement of system or device

(3) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the discharge of any contaminant, no person shall remove or cause or permit the removal of the system or device from the motor or motor vehicle, except as permitted by subsection (4).

Same

(4) A person may repair the system or device or replace the system or device by a system or device of the same type or of a type prescribed by the regulations. 1998, c. 35, s. 3.

Operation of motor or motor vehicle

23. (1) Except where necessary for test or repair purposes, no person shall operate or cause or permit the operation of a motor or motor vehicle or any class or type thereof that does not comply with the regulations.

Where system or device required

(2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle a system or device to prevent or lessen the discharge of any contaminant, the owner of such motor or motor vehicle shall not operate or cause or permit the operation of such motor or motor vehicle nor shall any person knowingly operate or cause or permit its operation unless such motor or motor vehicle has installed on, attached to or incorporated in it such system or device, and such system or device operates in accordance with the regulations when the motor or motor vehicle is in operation. R.S.O. 1990, c. E.19, s. 23.

PART IV WATER

Ice shelters

24. (1) In this section,

“ice shelter” means any structure that is located on or over ice over any water for more than one day and that is or may be used for shelter, privacy or the storage or sale of any thing; (“abri sur glace”)

“owner”, when used in relation to an ice shelter, includes a person who has the right to use or occupy the ice shelter; (“propriétaire”)

“waste” means human excrement or any refuse that is discharged or deposited in or from an ice shelter. (“déchets”) R.S.O. 1990, c. E.19, s. 24 (1).

Discharge of waste prohibited

(2) No person shall discharge or cause or permit the discharge of any waste on ice over any water except in accordance with the regulations. R.S.O. 1990, c. E.19, s. 24 (2).

Removal of ice shelter by provincial officer

(3) Except as provided in subsection (4), where an ice shelter is placed or allowed to remain on ice over any water in contravention of the regulations, a provincial officer may remove the ice shelter or cause it to be removed,

- (a) where the provincial officer is able to determine the name and address of the owner, after service of notice upon the owner at least seven days before the date of the removal; or
- (b) where the provincial officer is unable to determine the name and address of the owner, forthwith. R.S.O. 1990, c. E.19, s. 24 (3).

Idem, out of season

(4) Where an ice shelter is placed or allowed to remain on ice over any water beyond the dates prescribed by the regulations within which ice shelters may be placed, allowed to remain or used on or over ice over any water, a provincial officer may remove the ice shelter or cause it to be removed without serving prior notice upon the owner, but where the provincial officer is able to determine the name and address of the owner, notice of the removal shall be served upon the owner forthwith after the removal. R.S.O. 1990, c. E.19, s. 24 (4).

Where owner may retake possession of ice shelter

(5) Except where an ice shelter has been destroyed in the course of removal, the owner of an ice shelter that has been removed pursuant to subsection (3) or (4) may take possession of the ice shelter within thirty days of the removal or of service of the notice mentioned in subsection (3), whichever is later, or within thirty days after service of the notice mentioned in subsection (4), as the case requires, upon payment to the Minister of Finance of the costs and charges for removal and storage of the ice shelter. R.S.O. 1990, c. E.19, s. 24 (5); 2001, c. 9, Sched. G, s. 5 (22).

Where provincial officer may dispose of ice shelter

(6) Where the owner of an ice shelter that has been removed pursuant to subsection (3) or (4) does not take possession of the ice shelter pursuant to subsection (5),

- (a) a provincial officer may dispose of the ice shelter without compensation therefor; and
- (b) the owner is divested of ownership of the ice shelter and, where the ice shelter is disposed of to any person, such person shall acquire ownership of the ice shelter free from any right, title or interest of any other person. R.S.O. 1990, c. E.19,

s. 24 (6).

Notice

(7) A notice under subsection (3) or (4) shall be in such form as the regulations may prescribe and shall state that the owner may take possession of the ice shelter pursuant to subsection (5) and that, if such owner does not so take possession, the ice shelter may be disposed of without compensation therefor and, where the ice shelter has been removed or caused to be removed pursuant to subsection (4) and has been damaged or destroyed in the course of the removal, the notice shall state the condition of the ice shelter. R.S.O. 1990, c. E.19, s. 24 (7).

Means of removal

(8) A provincial officer shall use due care in removing an ice shelter pursuant to subsection (3) or (4) but may use a means of removal that causes damage to or the destruction of the ice shelter if the use of the means of removal is necessary in order to carry out the removal. R.S.O. 1990, c. E.19, s. 24 (8).

Damage or destruction during removal

(9) Where an ice shelter is removed pursuant to subsection (3) or (4) and the means of removal that is necessary in the circumstances results in damage to or the destruction of the ice shelter, the owner of the ice shelter is not entitled to compensation for the damage or destruction. R.S.O. 1990, c. E.19, s. 24 (9).

PART V WASTE MANAGEMENT

Definitions, Part V

25. In this Part,

“operator” means the person in occupation or having the charge, management, or control of a waste management system or a waste disposal site; (“exploitant”)

“owner” includes,

- (a) a person that is responsible for the establishment or operation of a waste management system or waste disposal site, or
- (b) the person that owns the land in or on which a waste disposal site is located; (“propriétaire”)

“owner”, in section 47, means a person that is responsible for the operation of a well that is a waste disposal site; (“propriétaire”)

“waste” includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other materials as are designated in the regulations; (“déchets”)

“waste disposal site” means,

- (a) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, and
- (b) any operation carried out or machinery or equipment used in connection with the depositing, disposal, handling, storage, transfer, treatment or processing referred to in clause (a); (“lieu d’élimination des déchets”)

“waste management system” means any facilities or equipment used in, and any operations carried out for, the management of waste including the collection,

handling, transportation, storage, processing or disposal of waste, and may include one or more waste disposal sites. (“système de gestion des déchets”) R.S.O. 1990, c. E.19, s. 25; 1992, c. 1, s. 25.

Application of Part, domestic waste

26. This Part does not apply to the storage or disposal by any person of the person’s domestic wastes on the person’s own property unless the Director is of the opinion, based upon reasonable and probable grounds, that such storage or disposal is or is likely to create a nuisance, or to any sewage or other works to which the *Ontario Water Resources Act* or the regulations thereunder apply. R.S.O. 1990, c. E.19, s. 26; 2005, c. 12, s. 1 (11).

Approval, waste management system or waste disposal site

27. (1) No person shall use, operate, establish, alter, enlarge or extend a waste management system or a waste disposal site except under and in accordance with an environmental compliance approval. 2010, c. 16, Sched. 7, s. 2 (20).

Exception, prescribed activities

(1.1) Subsection (1) does not apply to a person who is engaging in an activity at a site if the activity has been prescribed by the regulations for the purposes of subsection 20.21 (1), unless one of the following circumstances applies:

1. An environmental compliance approval in respect of the activity engaged in at the site has been issued before the day when a regulation prescribing the activity for the purposes of subsection 20.21 (1) comes into force, and the approval has not ceased to have effect as determined under section 20.17.
2. Subject to subsection (1.2), the Director has issued an order under section 20.18 in respect of the activity at the site. 2010, c. 16, Sched. 7, s. 2 (20).

Same

(1.2) If a registration under Part II.2 is in effect in respect of an activity engaged in at a site when the Director issues an order under section 20.18 in respect of the activity, subsection (1) applies only once the Director has removed the registration from the Environmental Activity and Sector Registry established under Part II.2. 2010, c. 16, Sched. 7, s. 2 (20).

Exception, routine maintenance

(1.3) Subsection (1) does not apply to routine maintenance carried out on any waste management system or waste disposal site. 2010, c. 16, Sched. 7, s. 2 (21).

Niagara Escarpment Plan Area

(2) Despite subsection (1), no person shall use, operate, establish, alter, enlarge or extend a waste disposal site in the Niagara Escarpment Plan Area as set out in the Niagara Escarpment Plan, unless the Director has issued a certificate of approval or a provisional certificate of approval before this subsection comes into force. 1994, c. 5, s. 1; 2009, c. 12, Sched. L, s. 4.

Exceptions

- (3)** Subsection (2) does not apply with respect to,
- (a) a transfer station or recycling facility, including a composting site, which receives waste only from the local municipality in which it is located; or
 - (b) in the case of a site approved before this subsection comes into force, a proposed use, operation, alteration, enlargement or extension of a waste disposal site which

will not result in a greater area at a waste disposal site being covered with waste than permitted under the existing approval. 1994, c. 5, s. 1.

Lakes

[\(3.1\)](#) Despite subsection (1), no person shall use, operate, establish, alter, enlarge or extend a waste disposal site where waste is deposited in a lake. 2004, c. 6, s. 7 (1).

Same

[\(3.2\)](#) In subsection (3.1),

“lake” includes,

(a) a body of surface water that,

(i) results from human activities, and

(ii) directly influences or is directly influenced by ground water, and

(b) an area of land that was covered by a body of water described in clause (a) or a lake on the day this subsection came into force,

but does not include,

(c) a body of water described in clause (a) or a lake, if the body of water or lake is less than one hectare in area, or

(d) an area of land described in clause (b), if the body of water described in clause (a) or lake that covered the area of land on the day this subsection came into force was, in total, less than one hectare in area on that day. 2004, c. 6, s. 7 (1).

No proceeding

[\(4\)](#) No proceeding directly or indirectly based upon the prohibition in subsection (2) or (3.1) may be brought against the Crown in right of Ontario, the Government of Ontario, any member of the Executive Council or any employee of the Crown or Government. 1994, c. 5, s. 1; 2004, c. 6, s. 7 (2).

Transition, repeal of Part VIII

[28. \(1\)](#) If, except for the operation of Part VIII, a site would have been a waste disposal site under this Part or facilities would have been a waste management system under this Part, those sites and facilities are, on the day that Part VIII is repealed, continued as a waste disposal site or waste management system under this Part if a certificate of approval under section 77 or a permit under section 78 or both were issued and remain in force in respect of such works. 1997, c. 30, Sched. B, s. 21.

Same

[\(2\)](#) The certificate of approval or permit or both are continued in force as if they were a certificate of approval under section 39, with such changes as necessary. 1997, c. 30, Sched. B, s. 21.

Continuation, orders

[\(3\)](#) An order issued and continuing in force under section 79 in respect of a sewage system which except for the operation of Part VIII would have been a waste disposal site or a waste management system under this Part is, upon the repeal of Part VIII, continued as if it were an order under section 44, with such changes as necessary. 1997, c. 30, Sched. B, s. 21.

[\(4\)](#) Repealed: 2010, c. 16, Sched. 7, s. 2 (22).

Records

(5) If an agreement under section 81 was in force immediately before the repeal of Part VIII, the party which was administering Part VIII under the agreement shall,

- (a) keep all records in their possession or under their control with respect to matters continued under this section for a period of six years from the date of the repeal or as otherwise prescribed under subsection (9);
- (b) on the written request of the Director, deliver to the Director a record or certified copy of a record relating to Part VIII as specified in the request;
- (c) on the written request of the Director, deliver to the Director a certificate as to the service of any document relating to Part VIII as specified in the request;
- (d) on the written request of the Director, deliver to the Director a certificate as to the custody of any document relating to Part VIII as specified in the request; and
- (e) on the written request of the Director, deliver to the Director a certificate as to whether or not any document relating to Part VIII as specified in the request was received or issued. 1997, c. 30, Sched. B, s. 21.

Deemed official document

(6) A record, certified copy of a record or a certificate delivered under clause (5) (b) or (c) that is or relates to an approval, certificate, consent, licence, notice, permit, order or return under Part VIII shall be deemed to be an official document signed by an employee in the Ministry for the purpose of section 175. 1997, c. 30, Sched. B, s. 21.

Same

(7) A certificate delivered under clause (5) (d) or (e) shall be deemed to be an official document signed by an employee in the Ministry for the purpose of section 175. 1997, c. 30, Sched. B, s. 21.

References

(8) The references to sections 77, 78, 79 and 81 in this section are references to those provisions as they read immediately before the repeal of Part VIII under Schedule B of the *Services Improvement Act, 1997*. 1997, c. 30, Sched. B, s. 21.

Regulations

(9) The Lieutenant Governor in Council may make regulations prescribing transitional matters necessary to deal with issues arising out of the repeal of Part VIII, which regulations may be general or specific in their application and may be retroactive to the date this section comes into force. 1997, c. 30, Sched. B, s. 21.

Limitation

(10) This section applies only to sewage systems which, except for the operation of Part VIII, would have been waste disposal sites or waste management systems under this Part and to matters and documents related to such sewage systems. 1997, c. 30, Sched. B, s. 21.

Report by Minister

29. (1) Where the Minister reports in writing to the clerk of a municipality that the Minister is of the opinion that it is necessary in the public interest that waste be collected or a waste management system or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, it is not necessary to obtain the assent of the electors to any by-law for incurring a debt for any such purpose, and the municipality shall forthwith do every possible act and thing in its power to implement the report of the Minister within the time specified. R.S.O. 1990, c. E.19, s. 29.

Reasons

(2) A report mentioned in subsection (1) must include a statement of the reasons for the Minister's opinion.

What report may require

(3) A report may require a municipality,

- (a) to collect or transport such waste as is specified in the report, including such waste from such source outside the boundaries of the municipality as is specified in the report;
- (b) to accept, process or otherwise deal with such waste as is specified in the report, including such waste from such source outside the boundaries of the municipality as is specified in the report, in a waste management system or at a waste disposal site located in or owned, operated or controlled by the municipality.

Compensation by persons benefiting

(4) If a report requires a municipality to do anything that will benefit a person, the report may specify compensation to be provided to the municipality by that person for the benefit and the following apply:

1. The person shall provide the compensation if the person has been served with a copy of the report unless the person, within fifteen days after service, gives a written notice to the municipality and the Minister that the person renounces the benefit.
2. If the person renounces the benefit, the municipality is, with respect to the benefit, relieved from its obligation to implement the report.

Waste from outside municipality

(5) Requirements in a report relating to waste from a source outside the boundaries of a municipality are binding on the municipality only during the five-year period following the making of the report or during such shorter period as the report may specify.

Report is an order

(6) A report is an order for the purposes of Part XIV. 1992, c. 1, s. 27.

30.-32. Repealed: 2010, c. 16, Sched. 7, s. 2 (23).

Hearing before Tribunal

33. (1) Upon receipt of a notice from the Director under section 36, the Tribunal shall hold a hearing with respect to the subject-matter of the notice. R.S.O. 1990, c. E.19, s. 33 (1); 2000, c. 26, Sched. F, s. 12 (12); 2010, c. 16, Sched. 7, s. 2 (24).

Parties

(2) The applicant, the Director and any other persons specified by the Tribunal shall be parties to the hearing. R.S.O. 1990, c. E.19, s. 33 (2); 2000, c. 26, Sched. F, s. 12 (12).

(3) Repealed: 2000, c. 26, Sched. F, s. 12 (4).

Decision

(4) The Tribunal shall serve notice of its decision, together with reasons therefor, on the parties to the hearing, and the Director shall implement the decision. R.S.O. 1990, c. E.19, s. 33 (4); 2000, c. 26, Sched. F, s. 12 (12).

Costs

(5) The Tribunal may award the costs of a proceeding under this section. 2000, c. 26,

Sched. F, s. 12 (5).

Payment

[\(6\)](#) The Tribunal may order to whom and by whom the costs are to be paid. 2000, c. 26, Sched. F, s. 12 (5).

Assessment

[\(7\)](#) The Tribunal may fix the amount of the costs or direct that the amount be assessed and it may direct the scale according to which they are to be assessed and by whom they are to be assessed. 2000, c. 26, Sched. F, s. 12 (5).

Considerations not limited

[\(8\)](#) In awarding costs, the Tribunal is not limited to the considerations that govern awards of costs in any court. 2000, c. 26, Sched. F, s. 12 (5).

Application

[\(9\)](#) Subsections (5) to (8) apply despite sections 17.1 and 32 of the *Statutory Powers Procedure Act*. 2000, c. 26, Sched. F, s. 12 (5).

Appeal from decision of Tribunal

[34.](#) A party to a proceeding under this Part before the Tribunal may appeal from its decision on a question of law to the Divisional Court. 2009, c. 33, Sched. 2, s. 28 (1).

[34.1, 35.](#) Repealed: 2010, c. 16, Sched. 7, s. 2 (25).

Hearing as to by-law

[36. \(1\)](#) Where a by-law of a municipality affects the location or operation of a proposed waste disposal site, the Director, upon the application of the person applying for approval under Part II.1 for the waste disposal site, may, by a notice in writing, and on such terms and conditions as he or she may direct, require the Tribunal to hold a public hearing to consider whether or not the by-law should apply to the proposed waste disposal site. R.S.O. 1990, c. E.19, s. 36 (1); 2000, c. 26, Sched. F, s. 12 (12); 2010, c. 16, Sched. 7, s. 2 (26).

When Tribunal to hold public hearing

[\(2\)](#) Upon receipt of notice from the Director, the Tribunal shall hold a public hearing with respect to the subject-matter of the notice. R.S.O. 1990, c. E.19, s. 36 (2); 2000, c. 26, Sched. F, s. 12 (12).

[\(3\)](#) Repealed: 2000, c. 26, Sched. F, s. 12 (7).

Parties and procedure

[\(4\)](#) Where the Director requires a public hearing under subsection (1),

- (a) the applicant, the municipality and any other person specified by the Tribunal shall be given notice of the hearing in such manner as the Tribunal directs; and
- (b) the Tribunal shall hold the public hearing within the municipality within which it is proposed to locate the waste disposal site. R.S.O. 1990, c. E.19, s. 36 (4); 2000, c. 26, Sched. F, s. 12 (12).

Order

[\(5\)](#) The Tribunal may order that the by-law referred to in subsection (1) does not apply to the proposed waste disposal site and the by-law shall thereupon be deemed not to apply thereto. R.S.O. 1990, c. E.19, s. 36 (5); 2000, c. 26, Sched. F, s. 12 (12).

[37., 38.](#) Repealed: 2010, c. 16, Sched. 7, s. 2 (27).

[39.](#) Repealed: 2010, c. 16, Sched. 7, s. 2 (29).

Prohibition as to deposit of waste

40. No person shall deposit, or cause, permit or arrange for the deposit of, waste upon, in, into or through any land or land covered by water or in any building that is not a waste disposal site for which an environmental compliance approval or renewable energy approval has been issued or a registration under Part II.2 is in effect and except in accordance with the terms and conditions of the approval or the regulations made for the purposes of Part II.2. 2010, c. 16, Sched. 7, s. 2 (30).

Prohibition as to use of facilities, etc.

41. No person shall use, or cause, permit or arrange for the use of, any facilities or equipment for the storage, handling, treatment, collection, transportation, processing or disposal of waste that is not part of a waste management system for which an environmental compliance approval or renewable energy approval has been issued or a registration under Part II.2 is in effect and except in accordance with the terms and conditions of the approval or the regulations made for the purposes of Part II.2. 2010, c. 16, Sched. 7, s. 2 (30).

Ownership of waste

42. (1) The ownership of waste that is accepted at a waste disposal site by the operator of the site is transferred to the operator upon acceptance. R.S.O. 1990, c. E.19, s. 42 (1).

Where waste not accepted

(2) Where waste is deposited but not accepted at a waste disposal site, the ownership of the waste shall be deemed to be transferred to the operator of the site immediately before the waste is deposited. R.S.O. 1990, c. E.19, s. 42 (2).

Approval

(3) Subsections (1) and (2) apply only in respect of a waste disposal site for which an environmental compliance approval, renewable energy approval or registration under Part II.2 is in effect. 2010, c. 16, Sched. 7, s. 2 (31).

Effect of contract

(4) Subsection (1) applies only in the absence of a contract to the contrary. R.S.O. 1990, c. E.19, s. 42 (4).

Liability

(5) Subsections (1) to (4) do not relieve any person from liability except liability as owner of waste that is delivered to and accepted by the operator of a waste disposal site in accordance with law including an applicable environmental compliance approval, applicable renewable energy approval or applicable regulation made under clause 176 (2.4) (e). 2009, c. 12, Sched. G, s. 3 (2); 2010, c. 16, Sched. 7, s. 2 (32).

Owner of land

(6) Where the operator of a waste disposal site is not the owner of the land on which the site is located, subsections (1) and (2) do not prevent the ownership of waste that is accepted or deposited at the site from being transferred to the owner of the land. R.S.O. 1990, c. E.19, s. 42 (6).

Order for removal of waste

43. Where waste has been deposited upon, in, into or through any land or land covered by water or in any building that has not been approved as a waste disposal site or in respect of which no registration under Part II.2 is in effect, the Director may issue an order to remove the waste and to restore the site to a condition satisfactory to the Director to,

- (a) an owner or previous owner or a person who otherwise has or had charge and control of the land or building or waste;
- (b) an occupant or previous occupant of the land or building; or
- (c) a person that the Director reasonably believes engaged in an activity prohibited by section 40 or 41 that resulted in the deposit of the waste. 1998, c. 35, s. 6; 2010, c. 16, Sched. 7, s. 2 (33).

Order by Director

44. Where a waste management system or a waste disposal site is not in conformity with this Part or the regulations, the Director may order an owner or previous owner to take such action as is required to bring the system or the site into conformity with this Part or the regulations within the time specified in the order. R.S.O. 1990, c. E.19, s. 44.

Right to compensation

45. (1) Within thirty days after the receipt of notice that the Director has refused to renew or has suspended or revoked an environmental compliance approval, any owner who has suffered pecuniary loss as a result of such decision affecting the owner's waste disposal site or waste management system may apply to the Director for compensation for such loss where such owner,

- (a) has received an environmental compliance approval for the waste disposal site or waste management system affected by the Director's decision; and
- (b) since receiving the environmental compliance approval, has strictly complied with this Act and the regulations. R.S.O. 1990, c. E.19, s. 45 (1); 2010, c. 16, Sched. 7, s. 2 (34-36).

Same

(1.1) Within 30 days after the receipt of notice or an order that the Director has suspended a registration under Part II.2 or removed a registration under Part II.2 from the registry established under that Part, any owner who has suffered pecuniary loss as a result of such decision affecting the owner's waste disposal site or waste management system may apply to the Director for compensation for such loss where such owner,

- (a) has received a confirmation of registration under Part II.2 in respect of the waste disposal site or waste management system affected by the Director's decision; and
- (b) since registering the activity, has strictly complied with this Act and the regulations. 2010, c. 16, Sched. 7, s. 2 (37).

Exception

(1.2) Subsection (1.1) does not apply if the Director removes the registration from the registry as a result of issuing an order under section 20.18, unless the Director refuses to issue an environmental compliance approval in respect of the waste disposal site or waste management system. 2010, c. 16, Sched. 7, s. 2 (38).

Notice of decision and right to appeal

(2) A notice of the decision of the Director in disposing of the application and a notice stating the right to an appeal under this section shall be served on the owner either personally or by registered mail addressed to the owner at the owner's last known address. R.S.O. 1990, c. E.19, s. 45 (2).

Right to appeal

(3) Within fifteen days after receipt of the notices referred to in subsection (2), the owner may by written notice received by the Ministry and the Tribunal, appeal the amount of compensation, if any, to the Tribunal, and such appeal shall be a new hearing and the Tribunal may dismiss the appeal or alter the decision of the Director establishing the amount of the compensation, if any, and the decision of the Tribunal shall be final. R.S.O. 1990, c. E.19, s. 45 (3); 2000, c. 26, Sched. F, s. 12 (12).

Payment of compensation

(4) Where the Director or the Tribunal, as the case may be, has established the amount of the compensation, if any, the Minister of the Environment shall certify the amount thereof to the Minister of Finance and the Minister of Finance shall pay such amount to the person entitled thereto out of the Consolidated Revenue Fund. R.S.O. 1990, c. E.19, s. 45 (4); 2000, c. 26, Sched. F, s. 12 (12); 2001, c. 9, Sched. G, s. 5 (2).

Former disposal sites

46. No use shall be made of land or land covered by water which has been used for the disposal of waste within a period of twenty-five years from the year in which such land ceased to be so used unless the approval of the Minister for the proposed use has been given. R.S.O. 1990, c. E.19, s. 46.

Security Fund

47. (1) There shall be an account in the Consolidated Revenue Fund to be known in English as “The Waste Well Disposal Security Fund” and in French as “Caisse de garantie des propriétaires de puits d’élimination des déchets”, referred to in this section as the “Fund”, into which shall be paid the prescribed fees received under this Act. R.S.O. 1990, c. E.19, s. 47 (1).

Interest

(2) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined from time to time by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year. R.S.O. 1990, c. E.19, s. 47 (2).

Owner of waste disposal well to pay fee

(3) The owner of every well that is a waste disposal site shall pay a fee calculated upon the amount and type of waste disposed of in the well. R.S.O. 1990, c. E.19, s. 47 (3).

Fee paid to Minister of Finance

(4) The fee shall be paid to the Minister of Finance for payment into the Fund. R.S.O. 1990, c. E.19, s. 47 (4); 2001, c. 9, Sched. G, s. 5 (22).

Calculation and payment of fee

(5) The fee shall be at the rate or rates prescribed by the regulations, shall be paid upon the amount and type of waste disposed of in the well in each calendar year and shall be paid in advance in each calendar year. R.S.O. 1990, c. E.19, s. 47 (5).

Estimate by Director

(6) The Director shall estimate the amount of the fee for each calendar year based upon the amount and type of waste disposed of in the well in the previous calendar year and where waste was not disposed of in the well in the previous calendar year the Director shall estimate the fee on the basis of the amount and type of waste that in the Director’s opinion will be disposed of in the well in the current calendar year and may revise such estimate at any time before payment of the estimated fee as required by subsection (7). R.S.O. 1990,

c. E.19, s. 47 (6).

Payment of estimated fee

(7) The estimated fee for each calendar year shall be paid within thirty days after receipt of the notice or revised notice by the owner of the well of the amount of the fee estimated by the Director. R.S.O. 1990, c. E.19, s. 47 (7).

Adjustment of fee

(8) At the end of each calendar year, the Director shall calculate the amount of the fee for the year and,

- (a) where the fee estimated and paid for the year is less than the calculated fee, the Director shall add the difference to the estimated fee for the next calendar year or may, by a notice in writing, require the owner of the well to pay the difference forthwith to the Minister of Finance; and
- (b) where the fee estimated and paid for the year is greater than the calculated fee, the Director shall deduct the difference from the estimated fee for the next calendar year or may certify to the Minister of Finance the amount of such difference and the Minister of Finance shall pay such amount to the owner of the well. R.S.O. 1990, c. E.19, s. 47 (8); 2001, c. 9, Sched. G, s. 5 (22).

Person suffering damage to be compensated

(9) Where the water in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse that any person takes for ordinary household purposes or for the watering of livestock, poultry, home gardens or lawns, or for the watering or irrigation of crops grown for sale, is rendered unfit for such use by reason of the operation of any well that is a waste disposal site, the person is entitled to be compensated out of the Fund so far as the Fund is sufficient for that purpose, having regard to any other charges thereon, if the person gives notice to the Director forthwith after becoming aware that the water has been rendered unfit and makes a claim therefor under subsection (10) within six months, or such longer period of time as may be determined by the Director, from the date that the Director received the notice that the water has been rendered unfit. R.S.O. 1990, c. E.19, s. 47 (9).

Claim for compensation

(10) A person claiming to be entitled to compensation out of the Fund shall make application therefor to the Director in writing, setting out therein the person's full name and address and the particulars of the person's claim and shall furnish to the Director such additional information with respect to the subject-matter of the claim that the Director may require and that is within the person's knowledge. R.S.O. 1990, c. E.19, s. 47 (10).

Determination by Director

(11) The Director shall investigate or cause an investigation to be made and shall determine whether there are reasonable grounds for believing that the water referred to in subsection (9) has been rendered unfit for any of the purposes set out therein and for which it was used and that it has been rendered unfit by the disposal of waste in any well that is a waste disposal site and in such case shall determine the amount of the claimant's reasonable and necessary expenses incurred in obtaining a temporary or permanent alternate supply of water substantially equivalent in quantity and quality to such water. R.S.O. 1990, c. E.19, s. 47 (11); 2005, c. 12, s. 1 (12).

Director's certificate

(12) The Director shall set out his or her determination in a certificate together with

written reasons therefor and send a copy thereof to the claimant by registered mail at the address set out in the application. R.S.O. 1990, c. E.19, s. 47 (12).

When certificate final

[\(13\)](#) The certificate of the Director is final at the end of thirty days from the date of mailing it to the claimant unless notice of appeal is served within that time. R.S.O. 1990, c. E.19, s. 47 (13).

Appeal

[\(14\)](#) The claimant may appeal to the Tribunal at any time before the certificate of the Director becomes final and the procedure thereon shall be the same as upon an appeal from an order of the Director under Part XIII. R.S.O. 1990, c. E.19, s. 47 (14); 2000, c. 26, Sched. F, s. 12 (12).

Payment out of Fund

[\(15\)](#) Where the Director has sent the certificate by registered mail to the claimant and the time for any appeal has expired or, where an appeal is taken, it is disposed of, and it is finally determined that the claimant is entitled to payment of compensation out of the Fund, the Director shall certify to the Minister of Finance the sum found to be payable and the Minister of Finance shall pay such sum to the claimant out of the Fund. R.S.O. 1990, c. E.19, s. 47 (15); 2001, c. 9, Sched. G, s. 5 (22).

Recovery of money

[\(16\)](#) Where a claimant who has received any payment out of the Fund recovers any money directly or indirectly from the owner of a well that is a waste disposal site, in respect of the expenses for which the payment was made out of the Fund, the claimant shall repay to the Minister of Finance for credit to the Fund an amount equal to the payment out of the Fund or the money received from the owner of the well, whichever is the lesser, and such amount may be recovered with costs in any court of competent jurisdiction as a debt due to the Crown. R.S.O. 1990, c. E.19, s. 47 (16); 2001, c. 9, Sched. G, s. 5 (22).

Recovery of fees owing

[\(17\)](#) Any fee or any difference between the estimated fee and the calculated fee referred to in clause (8) (a) that is payable under this section may be recovered in any court of competent jurisdiction as a debt due to the Crown. R.S.O. 1990, c. E.19, s. 47 (17).

PART V.0.1 RENEWABLE ENERGY

Definition

[47.1](#) In this Part,

“environment” has the same meaning as in the *Environmental Assessment Act*. 2009, c. 12, Sched. G, s. 4 (1).

Purpose

[47.2 \(1\)](#) The purpose of this Part is to provide for the protection and conservation of the environment. 2009, c. 12, Sched. G, s. 4 (1).

Application of s. 3 (1)

[\(2\)](#) Subsection 3 (1) does not apply to this Part. 2009, c. 12, Sched. G, s. 4 (1).

Requirement for renewable energy approval

[47.3 \(1\)](#) A person shall not engage in a renewable energy project except under the authority of and in accordance with a renewable energy approval issued by the Director if

engaging in the project involves engaging in any of the following activities:

1. An activity for which, in the absence of subsection (2), subsection 9 (1) of this Act would require an environmental compliance approval.
2. An activity for which, in the absence of subsection (2), subsection 27 (1) of this Act would require an environmental compliance approval.
3. An activity for which, in the absence of subsection (2), subsection 34 (3) of the *Ontario Water Resources Act* would require a permit.

Note: On the later of the day subsection 4 (1) of Schedule G to the *Green Energy and Green Economy Act, 2009* comes into force and the day subsection 1 (8) of the *Safeguarding and Sustaining Ontario's Water Act, 2007* comes into force, paragraph 3 is repealed and the following substituted:

3. An activity for which, in the absence of subsection (2), subsection 34 (1) of the *Ontario Water Resources Act* would require a permit, if the activity would not involve a transfer as defined in subsection 34.5 (1) of that Act.

See: 2009, c. 12, Sched. G, ss. 4 (2), 26 (2).

4. An activity for which, in the absence of subsection (2), section 36 of the *Ontario Water Resources Act* would require a well construction permit.
5. An activity for which, in the absence of subsection (2), subsection 53 (1) of the *Ontario Water Resources Act* would require an environmental compliance approval.
6. An activity for which, in the absence of subsection (2), a provision prescribed by the regulations would require an approval, permit or other instrument.
7. Any other activity prescribed by the regulations. 2009, c. 12, Sched. G, s. 4 (1); 2010, c. 16, Sched. 7, s. 2 (39-41).

Exemptions

(2) The following provisions do not apply to a person who is engaging in a renewable energy project:

1. Subsection 9 (1) of this Act.
2. Subsection 27 (1) of this Act.
3. Subsection 34 (3) of the *Ontario Water Resources Act*.

Note: On the later of the day subsection 4 (1) of Schedule G to the *Green Energy and Green Economy Act, 2009* comes into force and the day subsection 1 (8) of the *Safeguarding and Sustaining Ontario's Water Act, 2007* comes into force, paragraph 3 is repealed and the following substituted:

3. Subsection 34 (1) of the *Ontario Water Resources Act*, if the person engaging in the renewable energy project is not engaged in a taking of water that involves a transfer as defined in subsection 34.5 (1) of that Act.

See: 2009, c. 12, Sched. G, ss. 4 (3), 26 (2).

4. Section 36 of the *Ontario Water Resources Act*.
5. Section 53 of the *Ontario Water Resources Act*.

6. A provision prescribed by the regulations for the purpose of paragraph 6 of subsection (1). 2009, c. 12, Sched. G, s. 4 (1); 2010, c. 16, Sched. 7, s. 2 (42).

Application

47.4 (1) An application for the issue or renewal of a renewable energy approval shall be prepared in accordance with the regulations and submitted to the Director. 2009, c. 12, Sched. G, s. 4 (1).

Director may require information

(2) The Director may require an applicant under subsection (1) to submit any plans, specifications, engineers' reports or other information and to carry out and report on any tests or experiments relating to the renewable energy project. 2009, c. 12, Sched. G, s. 4 (1).

Director's powers

47.5 (1) After considering an application for the issue or renewal of a renewable energy approval, the Director may, if in his or her opinion it is in the public interest to do so,

- (a) issue or renew a renewable energy approval; or
- (b) refuse to issue or renew a renewable energy approval. 2009, c. 12, Sched. G, s. 4 (1).

Terms and conditions

(2) In issuing or renewing a renewable energy approval, the Director may impose terms and conditions if in his or her opinion it is in the public interest to do so. 2009, c. 12, Sched. G, s. 4 (1).

Other powers

(3) On application or on his or her own initiative, the Director may, if in his or her opinion it is in the public interest to do so,

- (a) alter the terms and conditions of a renewable energy approval after it is issued;
- (b) impose new terms and conditions on a renewable energy approval; or
- (c) suspend or revoke a renewable energy approval. 2009, c. 12, Sched. G, s. 4 (1).

Same

(4) A renewable energy approval is subject to any terms and conditions prescribed by the regulations. 2009, c. 12, Sched. G, s. 4 (1).

Water transfers: Great Lakes-St. Lawrence River, Nelson and Hudson Bay Basins

47.6 A renewable energy approval shall not authorize a person to take water contrary to subsection 34.3 (2) of the *Ontario Water Resources Act*. 2009, c. 12, Sched. G, s. 4 (1).

Policies, renewable energy approvals

47.7 (1) The Minister may, in writing, issue, amend or revoke policies in respect of renewable energy approvals. 2009, c. 12, Sched. G, s. 4 (1).

Same

(2) A policy or the amendment or revocation of a policy takes effect on the later of the following days:

1. The day that notice of the policy, amendment or revocation, as the case may be, is given in the environmental registry established under the *Environmental Bill of Rights, 1993*.
2. The effective day specified in the policy, amendment or revocation, as the case

may be. 2009, c. 12, Sched. G, s. 4 (1).

Same

(3) Subject to section 145.2.2, decisions made under this Act in respect of renewable energy approvals shall be consistent with any policies issued under subsection (1) that are in effect on the date of the decision. 2009, c. 12, Sched. G, s. 4 (1).

PART V.1 VEHICLE PERMITS AND NUMBER PLATES

Seizure of permits and number plates

Definitions, ss. 48 to 55

48. (1) In this section and in sections 49 to 55,

“number plates” means number plates issued under the *Highway Traffic Act*; (“plaques d’immatriculation”)

“offence” means offence under this Act, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002* or the *Toxics Reduction Act, 2009*; (“infraction”)

“permit” means permit issued under section 7 of the *Highway Traffic Act*; (“certificat d’immatriculation”)

“Registrar” means Registrar of Motor Vehicles under the *Highway Traffic Act*. (“registrateur”) R.S.O. 1990, c. E.19, s. 48 (1); 1998, c. 35, s. 8 (1, 2); 2002, c. 4, s. 62 (2); 2009, c. 19, s. 67 (2).

Seizure of permit and number plates

(2) A police officer or a provincial officer may seize the permit and the number plates for a vehicle where he or she reasonably believes that the vehicle was used or is being used in connection with the commission of an offence and the seizure is necessary to prevent the continuation or repetition of the offence. 1998, c. 35, s. 8 (3).

Safekeeping

(3) The police officer or provincial officer,

(a) shall deliver the permit and the number plates into the custody of the Registrar pending disposition as provided in sections 49 to 55; and

(b) shall give notice to the Registrar of the date when the permit and the number plates were seized. R.S.O. 1990, c. E.19, s. 48 (3).

Notice by Registrar

(4) The Registrar shall give notice of the delivery into custody and of the date of the seizure to the person to whom the permit and the number plates were issued. R.S.O. 1990, c. E.19, s. 48 (4).

Suspension of permit and detention of number plates

49. (1) Where a person is convicted of an offence, the court may order the suspension of the permit and the detention of the number plates for any vehicle that the court is satisfied was used in connection with the commission of the offence. 1998, c. 35, s. 9 (1).

Term of suspension and detention

(2) The court may fix such period of time, not exceeding five years, for the suspension of the permit and the detention of the number plates as the court considers proper.

Idem

(3) Where the permit and the number plates were seized under section 48, the period of the suspension and detention shall be calculated from the day of the seizure.

Order for seizure

(4) Where the permit and the number plates have not been seized, the court may order that the permit and the number plates shall be seized and delivered to the Registrar.

Out-of-province permit and number plates

(5) Where the permit to drive the vehicle on a highway and the number plates were issued by an authority outside Ontario and not under the *Highway Traffic Act*, the court shall not act under subsection (1) but may order the Registrar to return the permit and the number plates to the authority that issued them.

Order is additional to any other penalty

(6) The court may issue an order under this section in addition to any other penalty imposed.

Notice of commencement of proceeding

(7) The prosecutor shall give to the Registrar and to the person to whom the permit and the number plates were issued notice of the commencement of the proceeding in respect of the offence mentioned in subsection (1).

Notice of intention to seek order

(8) Subsections (1) and (5) do not apply unless the court is satisfied that the person to whom the permit and the number plates were issued was notified, before the defendant entered a plea, that an order would be sought under this section. R.S.O. 1990, c. E.19, s. 49 (2-8).

Right to be added as a party

(9) A person given notice under subsection (8) has the right to be added as a party to the proceeding in respect of the offence for one or both of the following purposes:

1. Satisfying the court that the vehicle was not used in connection with the commission of the offence.
2. Making submissions to the court with respect to the issuance of an order under this section. 1998, c. 35, s. 9 (2).

Duty to give notice

(10) A prosecutor who intends not to seek a penalty under this section shall give notice of that fact to the court, to the Registrar and to the person to whom the permit and the number plates were issued.

Notice of intention not to seek penalty

(11) Subsections (1), (4) and (5) do not apply where the prosecutor gives notice to the person to whom the permit and the number plates were issued that a penalty will not be sought under this section. R.S.O. 1990, c. E.19, s. 49 (10, 11).

Order to detain permit and number plates pending payment of penalty

50. (1) Where,

- (a) a person is convicted of an offence; and
- (b) the court is satisfied,
 - (i) that the permit and the number plates for a vehicle used in connection with

the commission of the offence are in the possession of the Registrar or are the subject of an order for seizure and delivery to the Registrar, and

- (ii) that the person to whom the permit and the number plates were issued was notified that a penalty would be sought under section 49,

the court may order the Registrar to detain the permit and the number plates until any fine imposed upon the conviction mentioned in clause (a) is paid. R.S.O. 1990, c. E.19, s. 50 (1); 1998, c. 35, s. 10.

Duty of court clerk

(2) The clerk of the court shall transmit to the Registrar,

- (a) a copy of the order made under subsection (1) together with a certificate as to the issuance of the order; and
- (b) upon payment of the fine, a certificate by the clerk as to the payment. R.S.O. 1990, c. E.19, s. 50 (2).

Appeal, order under ss. 49 and 50

51. An appeal lies from an order or a refusal to issue an order under section 49 or 50 in the same manner as an appeal from a conviction or acquittal in respect of an offence mentioned in such section. R.S.O. 1990, c. E.19, s. 51.

Return of permit and number plates

52. (1) Where the Registrar is satisfied as to the circumstances set out in subsection (2), the Registrar upon application by the person to whom the permit and the number plates were issued shall return the permit and the number plates or, upon payment of any fees prescribed therefor under the *Highway Traffic Act*,

- (a) shall renew the permit and return or issue new number plates; or
- (b) shall issue a new permit and new number plates,

as the case requires. R.S.O. 1990, c. E.19, s. 52 (1).

When return to be made

(2) The circumstances referred to in subsection (1) are that,

- (a) the prosecutor has given notice to the Registrar that an order will not be sought,
 - (i) for the suspension of the permit and the detention of the number plates, or
 - (ii) for the return of the permit and the number plates to the authority outside Ontario that issued them;
- (b) at the conclusion of an investigation, no proceeding is commenced in respect of the offence mentioned in subsection 49 (1);
- (c) notice of the commencement of the proceeding in respect of the offence mentioned in subsection 49 (1) is not given to the Registrar or to the person to whom the permit and the number plates were issued within thirty days of the seizure of the permit and the number plates;
- (d) every charge that has been laid is withdrawn;
- (e) any proceeding that has been commenced is finally disposed of without the issuance of an order,
 - (i) for the suspension of the permit and the detention of the number plates,

- (ii) for the return of the permit and the number plates to the authority outside Ontario that issued them, or
- (iii) for the detention of the permit and the number plates pending payment of a fine;
- (f) where an order has been issued for the suspension of the permit and the detention of the number plates, the period of the suspension and detention has been completed and, if an order has been issued for the detention of the permit and the number plates pending payment of a fine, the fine has been paid;
- (g) where an order has been issued for the detention of the permit and the number plates pending payment of a fine, the fine has been paid; or
- (h) except where the permit and number plates are in the custody of the Registrar under a court order, a provincial officer has given notice to the Registrar that the suspension of the permit and number plates is no longer necessary to prevent the continuation or repetition of the offence. R.S.O. 1990, c. E.19, s. 52 (2); 1998, c. 35, s. 11.

Prohibition, applications for permits and number plates

Permits

- 53. (1)** No person whose permit or number plates for a vehicle,
- (a) have been seized and are held in custody under section 48;
 - (b) are under suspension or detention under section 49 or 51; or
 - (c) are detained under section 50,

shall apply for, procure the issue or renewal of or have possession of a permit for the vehicle.

Number plates

- (2)** No person whose permit or number plates for a vehicle,
- (a) have been seized and are held in custody under section 48;
 - (b) are under suspension or detention under section 49 or 51; or
 - (c) are detained under section 50,

shall apply for, procure the issue of or have in the person's possession or on the vehicle number plates for the vehicle. R.S.O. 1990, c. E.19, s. 53.

Transmittal of copy of order

54. Where, under section 49 or 51, an order is made or a charge is dismissed, the clerk or registrar of the court shall transmit to the Registrar a copy of the order or the minute of dismissal certified by the clerk or registrar. R.S.O. 1990, c. E.19, s. 54.

Substituted service

55. (1) On application without notice, a justice who is satisfied that reasonable efforts have been made without success to give a notice, in accordance with section 182, under section 48 or 49, or that such reasonable efforts would not be successful, may order substituted service of the notice in such manner as the justice may direct. 1998, c. 35, s. 12.

Effect

(2) A notice given by substituted service in the manner directed under subsection (1) shall be deemed to be given on the day on which the substituted service is carried out. R.S.O.

1990, c. E.19, s. 55 (2).

PART VI OZONE DEPLETING SUBSTANCES

Definitions, Part VI

56. In this Part,

“designated” means designated by the regulations; (“désigné”)

“ozone depleting substance” means a chlorofluorocarbon, a halon or any other substance that has the potential to destroy ozone in the stratosphere. (“substance appauvrissant la couche d’ozone”) R.S.O. 1990, c. E.19, s. 56.

Application

57. Sections 58 and 59 apply only in respect of the following ozone depleting substances:

1. CFC-11, also known as fluorotrichloromethane.
2. CFC-12, also known as dichlorodifluoromethane.
3. CFC-113, also known as 1,1,2-trichloro-1,2,2-trifluoroethane.
4. CFC-114, also known as 1,2-dichloro-1,1,2,2-tetrafluoroethane.
5. CFC-115, also known as 1-chloro-1,1,2,2,2-pentafluoroethane.
6. Halon-1211, also known as bromochlorodifluoromethane.
7. Halon-1301, also known as bromotrifluoromethane.
8. Halon-2402, also known as dibromotetrafluoroethane.
9. Such other ozone depleting substances as may be designated. R.S.O. 1990, c. E.19, s. 57.

Prohibition, ozone depleting substances

58. No person shall make, use, transfer, display, transport, store or dispose of,

- (a) any thing, other than a prescription drug, containing an ozone depleting substance that acts as a propellant; or
- (b) any designated thing or any thing of a designated class if that thing contains an ozone depleting substance. R.S.O. 1990, c. E.19, s. 58.

Prohibition, manufacture using ozone depleting substances

59. No person shall make, use, transfer, display, transport, store or dispose of,

- (a) any packaging, wrapping or container that is made in a manner that uses an ozone depleting substance; or
- (b) any designated thing or any thing of a designated class if that thing is made in a manner that uses an ozone depleting substance. R.S.O. 1990, c. E.19, s. 59.

PART VII ABANDONED MOTOR VEHICLES

Definitions, Part VII

60. In this Part,

“abandoned motor vehicle” means a vehicle that has been left unattended without lawful

authority and that appears to an officer, by reason of its age, appearance, mechanical condition or lack of number plates, to be abandoned; (“véhicule automobile abandonné”)

“abandoned motor vehicle site” means,

- (a) a waste disposal site,
 - (i) that is classified by the regulations as a derelict motor vehicle site,
 - (ii) that is not exempt under the regulations relating to Part V or this Part, and
 - (iii) for which an environmental compliance approval has been issued or a registration under Part II.2 is in effect, or
- (b) any place that is approved in writing by the Director for the purpose of receiving and storing abandoned motor vehicles; (“emplacement de véhicules automobiles abandonnés”)

“officer” means a provincial officer or a member of the Ontario Provincial Police Force or the police force in the area where an abandoned motor vehicle is found. (“agent”)
R.S.O. 1990, c. E.19, s. 60; 2010, c. 16, Sched. 7, s. 2 (43).

Removal of abandoned motor vehicle

61. An officer may remove or cause to be removed an abandoned motor vehicle to an abandoned motor vehicle site. R.S.O. 1990, c. E.19, s. 61.

Notice to owner, removal

62. Where an officer has removed an abandoned motor vehicle to an abandoned motor vehicle site, the officer shall forthwith serve notice in writing of the removal on the owner of the vehicle at the latest address shown on the records of the Ministry of Transportation when the officer causes the records to be examined or on the records, if any, on or in the vehicle unless the name and address of the owner cannot be determined. R.S.O. 1990, c. E.19, s. 62.

Contents of notice

63. A notice under section 62 shall,

- (a) contain a description of,
 - (i) the abandoned motor vehicle,
 - (ii) the place from which and the abandoned motor vehicle site to which the abandoned motor vehicle was removed,
 - (iii) the date of removal, and
 - (iv) the identification of the officer who removed or caused the removal of the abandoned motor vehicle; and
- (b) state,
 - (i) that if the abandoned motor vehicle is not claimed by the owner or any other person having a right or interest in the vehicle within thirty days from the date of service of the notice, the abandoned motor vehicle will be sold or otherwise disposed of by the person having the charge and control of the abandoned motor vehicle site, and
 - (ii) that the owner shall forthwith upon receipt of the notice notify any person having a right or interest in the abandoned motor vehicle, of whom the

owner has knowledge, of the receipt and contents of the notice of removal. R.S.O. 1990, c. E.19, s. 63.

Where owner may retake possession

64. The owner or any person having a right or interest in an abandoned motor vehicle may take possession of the abandoned motor vehicle within thirty days after the date of service of the notice referred to in section 62 or, where notice of removal has not been served, within thirty days after the date of removal of the vehicle on payment to the person having the charge and control of the abandoned motor vehicle site of all costs and charges, if any, for removal of the vehicle to and all costs and charges, if any, for storage of the vehicle at the abandoned motor vehicle site. R.S.O. 1990, c. E.19, s. 64.

Disposal of vehicle

65. Where an abandoned motor vehicle has not been claimed by the owner or any person having a right or interest in the abandoned motor vehicle pursuant to section 64, the person having the charge and control of the abandoned motor vehicle site shall sell or otherwise dispose of the vehicle and shall apply the proceeds of the sale or other disposition firstly, in payment of all costs and charges, if any, for removal of the vehicle to the abandoned motor vehicle site, and secondly, in payment of all costs and charges, if any, for storage of the vehicle at the site, and any surplus shall be paid to the Minister of Finance. R.S.O. 1990, c. E.19, s. 65; 2001, c. 9, Sched. G, s. 5 (22).

Ownership of vehicle

66. Where an abandoned motor vehicle is sold or otherwise disposed of pursuant to section 65, the owner or any person having a right or interest in the vehicle is divested of the ownership of or other right or interest in the vehicle and the person who has acquired the vehicle on a disposition pursuant to section 65 acquires the ownership of the vehicle free from any right or interest of any other person in the vehicle. R.S.O. 1990, c. E.19, s. 66.

Compensation, disposal of vehicles

67. Where an owner or other person having a right or interest in an abandoned motor vehicle that is disposed of pursuant to section 65 does not, acting in good faith through any cause beyond the owner or other person's control, receive notice of removal of the vehicle or does not otherwise acquire knowledge of such removal before the disposition and such owner or other person suffers loss as a result of such disposition, such owner or other person may apply to the Director for compensation upon giving notice to the Director forthwith after becoming aware of the disposition and upon applying therefor pursuant to section 68 within six months from the date the notice of removal, if any, is served or, where no notice of removal is served, from the date of removal of the vehicle to an abandoned motor vehicle site. R.S.O. 1990, c. E.19, s. 67.

Claim for compensation

68. A person applying for compensation pursuant to section 67 shall make application therefor to the Director in writing, setting out therein the person's full name and address and the particulars of the person's claim and shall furnish to the Director such additional information with respect to the subject-matter of the claim that the Director may require and that is within the person's knowledge. R.S.O. 1990, c. E.19, s. 68.

Director's certificate, compensation

69. The Director may award compensation under section 67 in such amount and on such terms and conditions as appear just under the circumstances and shall set out the award in a certificate together with written reasons therefor and send a copy thereof to the

applicant by registered mail at the address set out in the application. R.S.O. 1990, c. E.19, s. 69.

When certificate final

70. The certificate of the Director is final at the end of thirty days from the date of mailing it to the applicant unless notice of appeal is served within that time. R.S.O. 1990, c. E.19, s. 70.

Appeal, certificate of compensation

71. The applicant may appeal to the Tribunal at any time before the certificate of the Director becomes final and the procedure thereon shall be the same as upon an appeal from an order of the Director under Part XIII. R.S.O. 1990, c. E.19, s. 71; 2000, c. 26, Sched. F, s. 12 (12).

Payment of compensation

72. Where the Director has sent the certificate by registered mail to the applicant and the time for any appeal has expired or, where an appeal is taken, it is disposed of, and it is finally determined that the applicant is entitled to payment of compensation, the Director shall certify to the Minister of Finance the sum found to be payable and the Minister of Finance shall pay such sum to the applicant out of the Consolidated Revenue Fund. R.S.O. 1990, c. E.19, s. 72; 2001, c. 9, Sched. G, s. 5 (22).

Reimbursement of compensation payment

73. Where an applicant who has received any payment out of the Consolidated Revenue Fund pursuant to section 72 recovers any money directly or indirectly from any person in respect of the loss for which the payment was made out of the Consolidated Revenue Fund, the applicant shall repay to the Minister of Finance for credit to the Consolidated Revenue Fund an amount equal to the payment out of the Consolidated Revenue Fund or the money received from such person, whichever is the lesser, and such amount may be recovered with costs in any court of competent jurisdiction as a debt due to the Crown. R.S.O. 1990, c. E.19, s. 73; 2001, c. 9, Sched. G, s. 5 (22).

PART VIII (SS. 74-83) REPEALED: 1997, C. 30, SCHED. B, S. 22.

PART IX

LITTER, PACKAGING, CONTAINERS, DISPOSABLE PRODUCTS AND PRODUCTS THAT POSE WASTE MANAGEMENT PROBLEMS

Meaning of “litter”, Part IX

84. In this Part,

“litter” includes any material left or abandoned in a place other than a receptacle or place intended or approved for receiving such material and “littering” has a corresponding meaning. R.S.O. 1990, c. E.19, s. 84.

Research and studies, litter, packaging, etc.

85. The Minister, for the purposes of administering and enforcing this Part and the regulations related to it, may conduct research and studies concerning,

- (a) the management and disposal of litter;
- (b) the reduction of waste from packaging, containers and disposable products and the reuse or recycling of packaging, containers and disposable products;
- (c) the degradability of packaging, containers and disposable products;

- (d) the environmental appropriateness of packaging, containers and disposable products;
- (e) the environmental appropriateness of materials used in packaging, containers and disposable products;
- (f) products that pose or that may pose waste management problems. 1992, c. 1, s. 29.

Littering prohibited

86. No person shall abandon any material in a place, manner, receptacle or wrapping such that it is reasonably likely that the material will become litter. R.S.O. 1990, c. E.19, s. 86.

Subsidies and grants

87. The Minister may make grants to persons to assist in the provision of receptacles to receive litter in such amounts and upon such terms and conditions as the regulations may prescribe. R.S.O. 1990, c. E.19, s. 87.

Prohibition, use or sale of packaging, etc.

88. (1) No person shall use, offer for sale or sell any packaging, container or disposable product or any material for use in packaging, containers or disposable products contrary to this Act or the regulations.

Idem

(2) No person shall use, offer for sale or sell any product that is declared in the regulations to be a product that poses waste management problems contrary to this Act or the regulations. 1992, c. 1, s. 30.

Offence, litter

89. (1) Every person who fails to comply with a provision of this Part or a provision of a regulation relating to this Part that relates to litter is guilty of an offence and is liable on conviction to a fine of not more than \$1,000 on a first conviction and not more than \$2,000 on each subsequent conviction.

Idem, corporation

(2) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed is \$2,000 on a first conviction and \$5,000 on each subsequent conviction and not as provided in subsection (1). R.S.O. 1990, c. E.19, s. 89.

90. Repealed: 2005, c. 12, s. 1 (13).

PART X SPILLS

Interpretation and application, Part X

91. (1) In this Part,

“municipality” means an upper-tier municipality, a lower-tier municipality or a single-tier municipality; (“municipalité”)

“owner of the pollutant” means the owner of the pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and “owner of a pollutant” has a corresponding meaning; (“propriétaire du polluant”, “propriétaire d’un polluant”)

“person having control of a pollutant” means the person and the person’s employee or

agent, if any, having the charge, management or control of a pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and “person having control of the pollutant” has a corresponding meaning; (“personne qui exerce un contrôle sur un polluant”, “personne qui exerce un contrôle sur le polluant”)

“pollutant” means a contaminant other than heat, sound, vibration or radiation, and includes any substance from which a pollutant is derived; (“polluant”)

“practicable” means capable of being effected or accomplished; (“réalisable”)

“restore the natural environment”, when used with reference to a spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the spill of the pollutant that are affected or that may reasonably be expected to be affected by the pollutant, and “restoration of the natural environment”, when used with reference to a spill of a pollutant, has a corresponding meaning; (“reconstituer l’environnement naturel”, “reconstitution de l’environnement naturel”)

“spill”, when used with reference to a pollutant, means a discharge,

- (a) into the natural environment,
- (b) from or out of a structure, vehicle or other container, and
- (c) that is abnormal in quality or quantity in light of all the circumstances of the discharge,

and when used as a verb has a corresponding meaning; (“déversement”, “déverser”)

“substance” means any solid, liquid or gas, or any combination of any of them.

(“substance”) R.S.O. 1990, c. E.19, s. 91 (1); 2001, c. 9, Sched. G, s. 5 (5, 6); 2002, c. 17, Sched. F, Table.

Abnormal discharge

(2) A discharge of a pollutant designated by the regulations at a location designated by the regulations shall be deemed to be in a quantity or with a quality abnormal at the location. R.S.O. 1990, c. E.19, s. 91 (2).

Practicable

(3) In determining what is practicable for the purposes of this Part, regard shall be had to the technical, physical and financial resources that are or can reasonably be made available. R.S.O. 1990, c. E.19, s. 91 (3).

Exception re farming

(4) This Part does not apply to the disposal of animal wastes in accordance with normal farming practices. R.S.O. 1990, c. E.19, s. 91 (4).

Successors, etc.

(5) A reference in this Part, other than in section 92, to an owner of a pollutant or a person having control of a pollutant includes a successor, assignee, executor or administrator of the owner of the pollutant or the person having control of the pollutant. R.S.O. 1990, c. E.19, s. 91 (5).

Spill prevention and spill contingency plans

91.1 Every person who belongs to a class of persons prescribed by the regulations

shall, in accordance with the regulations, develop and implement plans to,

- (a) prevent or reduce the risk of spills of pollutants; and
- (b) prevent, eliminate or ameliorate any adverse effects that result or may result from spills of pollutants, including,
 - (i) plans to notify the Ministry, other public authorities and members of the public who may be affected by a spill, and
 - (ii) plans to ensure that appropriate equipment, material and personnel are available to respond to a spill. 2005, c. 12, s. 1 (14).

Notice of spills

92. (1) Every person having control of a pollutant that is spilled and every person who spills or causes or permits a spill of a pollutant shall forthwith notify the following persons of the spill, of the circumstances thereof, and of the action that the person has taken or intends to take with respect thereto,

- (a) the Ministry;
- (b) any municipality within the boundaries of which the spill occurred or, if the spill occurred within the boundaries of a regional municipality, the regional municipality;
- (c) where the person is not the owner of the pollutant and knows or is able to ascertain readily the identity of the owner of the pollutant, the owner of the pollutant; and
- (d) where the person is not the person having control of the pollutant and knows or is able to ascertain readily the identity of the person having control of the pollutant, the person having control of the pollutant. R.S.O. 1990, c. E.19, s. 92 (1); 2002, c. 17, Sched. F, Table; 2005, c. 12, s. 1 (15).

When duty effective

(2) The duty imposed by subsection (1) comes into force in respect of each of the persons having control of the pollutant and the person who spills or causes or permits the spill of the pollutant immediately when the person knows or ought to know that the pollutant is spilled. R.S.O. 1990, c. E.19, s. 92 (2); 2005, c. 12, s. 1 (16).

Additional information to Director

(3) The person required by subsection (1) to give notice and the owner of the pollutant shall give to the Director such additional information in respect of the pollutant, the source of the pollutant and the spill of the pollutant as may be required by the Director. R.S.O. 1990, c. E.19, s. 92 (3).

Notice to Ministry by person investigating

(4) A member of a police force or an employee of a municipality or other public authority who is informed of or who investigates the spill of a pollutant shall forthwith notify the Ministry of the spill of the pollutant unless he or she has reasonable grounds for believing that such notice has been given to the Ministry by another person. R.S.O. 1990, c. E.19, s. 92 (4).

Same

(5) The notices required by subsections (1) and (4) shall be given in accordance with any requirements prescribed by the regulations. 2005, c. 12, s. 1 (17).

Duty to mitigate and restore

93. (1) The owner of a pollutant and the person having control of a pollutant that is spilled and that causes or is likely to cause an adverse effect shall forthwith do everything practicable to prevent, eliminate and ameliorate the adverse effect and to restore the natural environment.

When duty effective

(2) The duty imposed by subsection (1) comes into force in respect of each of the owner of the pollutant and the person having control of the pollutant immediately when the owner or person, as the case may be, knows or ought to know that the pollutant is spilled and is causing or is likely to cause an adverse effect. R.S.O. 1990, c. E.19, s. 93.

Directions by Minister, spills

94. (1) Where a pollutant is spilled and the Minister is of the opinion that there is or is likely to be an adverse effect as a result of the spill, the Minister, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the employees in and agents of the Ministry. R.S.O. 1990, c. E.19, s. 94 (1); 2006, c. 35, Sched. C, s. 36 (2).

Where Minister may give directions

(2) The Minister may give directions in accordance with subsection (3) where the Minister is of the opinion that it is in the best interest of the public to do so and,

- (a) the Minister is of the opinion that neither the person having control of the pollutant nor the owner of the pollutant will carry out promptly the duty imposed by section 93;
- (b) the Minister is of the opinion that the person having control of the pollutant or the owner of the pollutant cannot be readily identified or located and that as a result the duty imposed by section 93 will not be carried out promptly; or
- (c) the person having control of the pollutant or the owner of the pollutant requests the assistance of the Minister in order to carry out the duty imposed by section 93. R.S.O. 1990, c. E.19, s. 94 (2).

Contents of directions

(3) Under this section, the Minister may direct the employees in and agents of the Ministry to do everything practicable or to take such action as may be specified in the directions in respect of the prevention, elimination and amelioration of the adverse effect and the restoration of the natural environment. R.S.O. 1990, c. E.19, s. 94 (3); 2006, c. 35, Sched. C, s. 36 (3).

Further directions

(4) The Minister may give directions amending or revoking directions given under this section. R.S.O. 1990, c. E.19, s. 94 (4).

Employees and agents

(5) No Act, regulation, by-law, order, permit, approval or licence bars the employees in and agents of the Ministry from acting in accordance with directions given by the Minister under this section. R.S.O. 1990, c. E.19, s. 94 (5); 2006, c. 35, Sched. C, s. 36 (4).

Hearing

(6) The Minister need not hold or afford to any person an opportunity for a hearing before giving directions under this section. R.S.O. 1990, c. E.19, s. 94 (6); 2006, c. 19, Sched. K, s. 2 (1).

Entry and removal

95. (1) For the purpose of carrying out the duty imposed by section 93 or an order or direction made or given under this Part, any person subject to the duty or to whom the order or direction is made or given and that person's employees and agents may,

- (a) enter any place;
- (b) construct structures and use machinery, structures, materials and equipment therein or thereon; and
- (c) remove therefrom the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant. R.S.O. 1990, c. E.19, s. 95 (1); 2005, c. 12, s. 1 (18).

Enforcement of right of entry, etc.

(2) The rights set out in subsection (1) may be enforced by application without notice to a judge of the Superior Court of Justice by a person, employee or agent referred to in subsection (1). R.S.O. 1990, c. E.19, s. 95 (2); 2001, c. 9, Sched. G, s. 5 (21).

Order by judge

(3) Where the judge is satisfied that there is reasonable ground for believing that it is necessary to do anything mentioned in subsection (1), the judge may issue an order authorizing the person and the person's employees and agents or any one or more of them to do anything mentioned in subsection (1) and specified in the order. R.S.O. 1990, c. E.19, s. 95 (3).

When to be executed

(4) An order under subsection (3) shall be carried out between 6 a.m. and 9 p.m. standard time, unless the order otherwise authorizes. R.S.O. 1990, c. E.19, s. 95 (4).

Disposal of pollutant, etc.

96. (1) No person, employee or agent exercising any authority under subsection 100 (1) or carrying out any duty imposed or order or direction made or given under this Part shall dispose of or use any pollutant, or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant except,

- (a) in accordance with an order of or direction by the Minister under this or any other Act;
- (b) in accordance with a direction by or the approval of the Director, but such a direction or approval shall not be contrary to the regulations; or
- (c) in accordance with an approval, order, certificate of property use, requirement or direction by the Director under any other Part of this Act or by a Director or provincial officer under any other Act administered by the Minister, but such an approval, order, certificate of property use, requirement or direction shall not be contrary to the regulations. R.S.O. 1990, c. E.19, s. 96 (1); 2001, c. 17, s. 2 (5).

Direction or approval by Director

(2) The Director may give to any person, employee or agent mentioned in subsection (1), and may amend or revoke, a direction or approval mentioned in clause (1) (b) and may do so despite the terms of or conditions in,

- (a) an environmental compliance approval in respect of a waste disposal site; or

- (b) a renewable energy approval issued under Part V.0.1 in respect of a waste disposal site. 2009, c. 12, Sched. G, s. 5; 2010, c. 16, Sched. 7, s. 2 (44).

Conditions

(3) The Director may attach such conditions as the Director considers necessary to an approval mentioned in clause (1) (b). R.S.O. 1990, c. E.19, s. 96 (3).

Hearing

(4) The Director need not hold or afford to any person an opportunity for a hearing before giving, amending or revoking a direction or approval referred to in clause (1) (b). R.S.O. 1990, c. E.19, s. 96 (4); 2006, c. 19, Sched. K, s. 2 (2).

Orders by Minister, spills

97. (1) Where a pollutant is spilled and the Minister is of the opinion that there is or is likely to be an adverse effect and that it is in the best interest of the public to make an order under this section, the Minister may make an order directed to one or more of the following:

1. The owner of the pollutant.
2. The person having control of the pollutant.
3. The owner or the person having the charge, management or control of any real property or personal property that is affected or that may reasonably be expected to be affected by the pollutant.
4. The municipality within whose boundaries the spill occurred.
5. Any municipality contiguous to the municipality within whose boundaries the spill occurred.
6. Any municipality that is affected or that may reasonably be expected to be affected by the spill of the pollutant.
7. Any public authority.
8. Any person who is or may be adversely affected by the pollutant or whose assistance is necessary, in the opinion of the Minister, to prevent, eliminate or ameliorate the adverse effects or to restore the natural environment. R.S.O. 1990, c. E.19, s. 97 (1); 2002, c. 17, Sched. F, Table.

Content of orders

(2) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the prevention, elimination and amelioration of the adverse effects and the restoration of the natural environment within such period or periods of time as may be specified in the order. R.S.O. 1990, c. E.19, s. 97 (2).

Idem

(3) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the use or disposal of,

(a) the pollutant; or

(b) any matter, thing, plant or animal or any part of the natural environment affected or that may reasonably be expected to be affected by the pollutant,

within such period or periods of time as may be specified in the order. R.S.O. 1990, c. E.19,

s. 97 (3).

Amendment or revocation of order

[\(4\)](#) The Minister by an order may amend or revoke an order made under this section. R.S.O. 1990, c. E.19, s. 97 (4).

Effect of any Act, regulation, etc.

[\(5\)](#) The Minister may make an order under this section despite any Act, regulation, by-law, order, permit, approval or licence. R.S.O. 1990, c. E.19, s. 97 (5).

Hearing

[\(6\)](#) The Minister need not hold or afford to any person an opportunity for a hearing before making an order under this section. R.S.O. 1990, c. E.19, s. 97 (6); 2006, c. 19, Sched. K, s. 2 (3).

Notice of order

[\(7\)](#) The Minister may direct, orally or in writing, a representative of the Ministry to give a written notice setting out an order of the Minister made orally or in writing under this section. R.S.O. 1990, c. E.19, s. 97 (7).

Effect of notice

[\(8\)](#) An order of the Minister set out in a notice under subsection (7) is for all purposes an order of the Minister made under this section. R.S.O. 1990, c. E.19, s. 97 (8).

Service of order or notice

[\(9\)](#) Where an order under this section or a notice under subsection (7) that sets out an order is given to an employee or agent of an employer or principal named in the order, the order shall be deemed to be given to the employer or principal. R.S.O. 1990, c. E.19, s. 97 (9).

Writing required

[\(10\)](#) An order under this section is not effective unless it is set out in writing or is set out in a notice referred to in subsection (7). R.S.O. 1990, c. E.19, s. 97 (10).

Effect of compliance with duty, or order, etc.

[98.](#) A person who in good faith and in a reasonable manner, in carrying out or attempting to carry out,

- (a) a duty imposed by this Part; or
- (b) an order or direction by the Minister or a direction or approval by the Director under this Part,

takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action. R.S.O. 1990, c. E.19, s. 98.

Compensation, spills

[99. \(1\)](#) In this section,

“loss or damage” includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income. R.S.O. 1990, c. E.19, s. 99 (1).

Right to compensation

[\(2\)](#) Her Majesty in right of Ontario or in right of Canada or any other person has the right to compensation,

- (a) for loss or damage incurred as a direct result of,

- (i) the spill of a pollutant that causes or is likely to cause an adverse effect,
- (ii) the exercise of any authority under subsection 100 (1) or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or
- (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;

- (b) for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Part,

from the owner of the pollutant and the person having control of the pollutant. R.S.O. 1990, c. E.19, s. 99 (2).

Exception

(3) An owner of a pollutant or a person having control of a pollutant is not liable under subsection (2) if they establish that they took all reasonable steps to prevent the spill of the pollutant or if they establish that the spill of the pollutant was wholly caused by,

- (a) an act of war, civil war, insurrection, an act of terrorism or an act of hostility by the government of a foreign country;
- (b) a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (c) an act or omission with intent to cause harm by a person other than a person for whose wrongful act or omission the owner of the pollutant or the person having control of the pollutant is by law responsible,

or any combination thereof. R.S.O. 1990, c. E.19, s. 99 (3).

Qualification

(4) Subsection (3) does not relieve the owner of the pollutant or the person having control of the pollutant,

- (a) from liability for loss or damage that is a direct result of neglect or default of the owner of the pollutant or the person having control of the pollutant in carrying out a duty imposed or an order or direction made under this Part; or
 - (b) from liability, under clause (2) (a), for cost and expense incurred or, under clause (2) (b), for all reasonable cost and expense incurred,
 - (i) to do everything practicable to prevent, eliminate and ameliorate the adverse effect, or
 - (ii) to do everything practicable to restore the natural environment,
- or both. R.S.O. 1990, c. E.19, s. 99 (4).

Enforcement of right

(5) The right to compensation under subsection (2) may be enforced by action in a court of competent jurisdiction. R.S.O. 1990, c. E.19, s. 99 (5).

Liability

(6) Liability under subsection (2) does not depend upon fault or negligence. R.S.O. 1990, c. E.19, s. 99 (6).

Contribution

(7) In an action under this section,

- (a) where the plaintiff is an owner of the pollutant or a person having control of the pollutant, the court shall determine the degree, if any, in which the plaintiff would be liable to make contribution or indemnification under subsection (8) if the plaintiff were a defendant; and
- (b) where the plaintiff is not an owner or a person having control referred to in clause (a), the court shall determine the degree, if any, in which the plaintiff caused or contributed to the loss, damage, cost or expense by fault or negligence,

and the court shall reduce the compensation by the degree, if any, so determined. R.S.O. 1990, c. E.19, s. 99 (7).

Extent of liability

(8) Where two or more persons are liable to pay compensation under this section, they are jointly and severally liable to the person suffering the loss, damage, cost or expense but as between themselves, in the absence of an express or implied contract, each is liable to make contribution to and indemnify the other in accordance with the following principles:

1. Where two or more persons are liable to pay compensation under this section and one or more of them caused or contributed to the loss, damage, cost or expense by fault or negligence, such one or more of them shall make contribution to and indemnify,
 - i. where one person is found at fault or negligent, any other person liable to pay compensation under this section, and
 - ii. where two or more persons are found at fault or negligent, each other and any other person liable to pay compensation under this section in the degree in which each of such two or more persons caused or contributed to the loss, damage, cost or expense by fault or negligence.
2. For the purpose of subparagraph ii of paragraph 1, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense by fault or negligence, each of the persons liable to pay compensation is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances. R.S.O. 1990, c. E.19, s. 99 (8).

Enforcement of contribution

(9) The right to contribution or indemnification under subsection (8) may be enforced by action in a court of competent jurisdiction. R.S.O. 1990, c. E.19, s. 99 (9).

Adding parties

(10) Wherever it appears that a person not already a party to an action under this section may be liable in respect of the loss, damage, cost or expense for which compensation is claimed, the person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties. R.S.O. 1990, c. E.19, s. 99 (10).

Settlement and recovery between persons liable

(11) A person liable to pay compensation under this section may recover contribution or indemnity from any other person liable to pay compensation under this section in respect of the loss, damage, cost or expense for which the compensation is claimed by settling with the person suffering the loss, damage, cost or expense and continuing the action or commencing an action against such other person. R.S.O. 1990, c. E.19, s. 99 (11).

Amount of settlement

(12) A person who has settled a claim and continued or commenced an action as mentioned in subsection (11) must satisfy the court that the amount of the settlement was reasonable, and, if the court finds the amount was excessive, the court may fix the amount at which the claim should have been settled. R.S.O. 1990, c. E.19, s. 99 (12).

(13) Repealed: 2002, c. 24, Sched. B, s. 25.

(14) Repealed: 2002, c. 24, Sched. B, s. 25.

Director's order for costs and expenses

99.1 (1) If a pollutant is spilled, the Director may issue an order requiring the owner of the pollutant or the person having control of the pollutant to pay to the Minister of Finance any reasonable costs or expenses incurred by Her Majesty in right of Ontario for the following purposes:

1. To prevent, eliminate or ameliorate any adverse effects or to restore the natural environment.
2. To prevent or reduce the risk of future discharges into the natural environment of any pollutant owned by or under the charge, management or control of the person against whom the order is made. 2005, c. 12, s. 1 (19).

Same

(2) If an order to pay costs or expenses is issued under subsection (1) to a receiver or trustee in bankruptcy, the receiver or trustee in bankruptcy is not personally liable for those costs or expenses unless the spill arose from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy or of a receiver representative or trustee in bankruptcy representative. 2005, c. 12, s. 1 (19).

Contents

- (3)** An order under subsection (1) shall include,
- (a) a statement identifying the spill to which the order relates;
 - (b) a description of things for which Her Majesty in right of Ontario incurred costs or expenses for a purpose referred to in subsection (1);
 - (c) a detailed account of the costs and expenses incurred in doing the things; and
 - (d) a direction that the person to whom the order is issued pay the costs and expenses to the Minister of Finance. 2005, c. 12, s. 1 (19).

Application of ss. 153 and 155

(4) Sections 153 and 155 apply, with necessary modifications, in respect of an order under subsection (1). 2005, c. 12, s. 1 (19).

Joint and several liability

(5) Where two or more persons are liable to pay costs or expenses pursuant to an order under subsection (1), they are jointly and severally liable to Her Majesty in right of Ontario. 2005, c. 12, s. 1 (19).

Contribution and indemnity

(6) Where the Director is entitled to issue an order to two or more persons under subsection (1) in respect of costs or expenses, as between themselves, in the absence of an express or implied contract, each of those persons is liable to make contribution to and indemnify the other in accordance with the following principles:

1. Where the Director is entitled to issue an order to two or more persons under subsection (1) in respect of costs or expenses and one or more of them caused or contributed to the costs or expenses by fault or negligence, such one or more of them shall make contribution to and indemnify,
 - i. where one person is found at fault or negligent, any other person to whom the Director is entitled to issue an order under subsection (1), and
 - ii. where two or more persons are found at fault or negligent, each other and any other person to whom the Director is entitled to issue an order under subsection (1) in the degree in which each of such two or more persons caused or contributed to the costs or expenses by fault or negligence.
2. For the purpose of subparagraph 1 ii, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons to whom the Director is entitled to issue an order under subsection (1) caused or contributed to the costs or expenses, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person to whom the Director is entitled to issue an order under subsection (1) caused or contributed to the costs or expenses by fault or negligence, each of the persons to whom the Director is entitled to issue an order under subsection (1) is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances. 2005, c. 12, s. 1 (19).

Enforcement of contribution

(7) The right to contribution or indemnification under subsection (6) may be enforced by action in a court of competent jurisdiction. 2005, c. 12, s. 1 (19).

Adding parties

(8) Wherever it appears that a person not already a party to an action under subsection (7) may be a person to whom the Director is entitled to issue an order under subsection (1) in respect of the costs or expenses, the person may be added as a party defendant to the action on such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of court for adding third parties. 2005, c. 12, s. 1 (19).

Action by municipality or designated persons, spills

100. (1) Where a pollutant is spilled,

- (a) a municipality; and
- (b) Repealed: 2002, c. 17, Sched. F, Table.
- (c) a person or a member of a class of persons designated by the regulations,

or any one or more of them, may do everything practicable to prevent, eliminate and ameliorate any adverse effects and to restore the natural environment. R.S.O. 1990, c. E.19, s. 100 (1); 2002, c. 17, Sched. F, Table; 2005, c. 12, s. 1 (20).

Right of entry and immunity from prosecution

(2) A municipality or a person or member of a class of persons designated by the regulations acting under subsection (1) or an employee or agent of any of them so acting has the rights of a person under section 95 and, if acting in good faith and in a reasonable manner, the immunity conferred on a person by section 98. R.S.O. 1990, c. E.19, s. 100 (2); 2002, c. 17, Sched. F, Table.

Co-operation with others

(3) A municipality or a person or a member of a class of persons designated by the regulations acting under subsection (1) must,

- (a) co-ordinate efforts with;
- (b) make use of the expertise of; and
- (c) not impede,

a person carrying out a duty, order or direction under this Part. R.S.O. 1990, c. E.19, s. 100 (3); 2002, c. 17, Sched. F, Table.

Right to compensation

(4) A municipality or a person or member of a class of persons designated by the regulations has the right to compensation from the owner of the pollutant and the person having control of the pollutant for all reasonable cost and expense incurred in acting under subsection (1). R.S.O. 1990, c. E.19, s. 100 (4); 2002, c. 17, Sched. F, Table.

Enforcement

(5) The right to compensation under subsection (4) may be enforced by action in a court of competent jurisdiction. R.S.O. 1990, c. E.19, s. 100 (5).

Application of subss. 99 (6) to (12)

(6) Where the right to compensation under subsection (4) arises, subsections 99 (6) to (12) apply with necessary modifications. R.S.O. 1990, c. E.19, s. 100 (6); 2002, c. 24, Sched. B, s. 35.

Municipality's order for costs and expenses

100.1 (1) If a pollutant is spilled, a municipality may issue an order requiring the owner of the pollutant or the person having control of the pollutant to pay to the municipality any reasonable costs or expenses incurred by the municipality, or a local board of the municipality within the meaning of the *Municipal Affairs Act*, to prevent, eliminate or ameliorate any adverse effects or to restore the natural environment. 2005, c. 12, s. 1 (21).

Same

(2) If an order to pay costs or expenses is issued under subsection (1) to a receiver or trustee in bankruptcy, the receiver or trustee in bankruptcy is not personally liable for those costs unless the spill arose from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy or of a receiver representative or trustee in bankruptcy representative. 2005, c. 12, s. 1 (21).

Contents

(3) An order under subsection (1) shall include,

- (a) a statement identifying the spill to which the order relates;
- (b) a description of things for which the municipality or local board incurred costs or expenses for a purpose referred to in subsection (1);

- (c) a detailed account of the costs and expenses incurred in doing the things; and
- (d) a direction that the person to whom the order is issued pay the costs and expenses to the municipality. 2005, c. 12, s. 1 (21).

Application of s. 153

(4) Section 153 applies, with necessary modifications, in respect of an order under subsection (1). 2005, c. 12, s. 1 (21).

Lien

(5) If a municipality issues an order under subsection (1) against a person who owns real property in the municipality and the pollutant was spilled on that property, the municipality shall have a lien on the property for the amount specified in the order and that amount shall have priority lien status, as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2005, c. 12, s. 1 (21); 2006, c. 32, Sched. C, s. 19 (1).

Contribution and indemnity

(6) Subsections 99.1 (5) to (8) apply, with necessary modifications, in respect of orders issued by a municipality under subsection (1) and, for that purpose, a reference in those subsections to Her Majesty in right of Ontario shall be deemed to be a reference to the municipality. 2005, c. 12, s. 1 (21).

Appeals

(7) A person to whom an order of a municipality is directed under subsection (1) may, by written notice served on the municipality and the Tribunal within 15 days after service on the person of a copy of the order, require a hearing by the Tribunal. 2005, c. 12, s. 1 (21).

Extension of time for requiring hearing

(8) The Tribunal shall extend the time in which a person may give a notice under subsection (7) requiring a hearing if, in the Tribunal's opinion, it is just to do so because service of the order on the person did not give the person notice of the order. 2005, c. 12, s. 1 (21).

Contents of notice requiring hearing

(9) A person who gives a notice under subsection (7) shall state in the notice,

- (a) the portions of the order in respect of which the hearing is required; and
- (b) the grounds on which the person intends to rely at the hearing. 2005, c. 12, s. 1 (21).

Effect of contents of notice

(10) Except with leave of the Tribunal, at a hearing by the Tribunal, the person who required the hearing under subsection (7) is not entitled to appeal a portion of the order, or to rely on a ground, that is not stated in the person's notice requiring the hearing. 2005, c. 12, s. 1 (21).

Leave by Tribunal

(11) The Tribunal may grant the leave referred to in subsection (10) if the Tribunal is of the opinion that to do so is proper in the circumstances, and the Tribunal may give such directions as the Tribunal considers proper consequent on the granting of the leave. 2005, c. 12, s. 1 (21).

Automatic stay on appeal

(12) The commencement of a proceeding before the Tribunal stays the operation of

the order made under subsection (1). 2005, c. 12, s. 1 (21).

Parties to hearing

(13) The person requiring the hearing, the municipality and any other person specified by the Tribunal are parties to the hearing. 2005, c. 12, s. 1 (21).

Costs may be increased

(14) At a hearing by the Tribunal under this section, the municipality may, on reasonable notice to all parties, ask the Tribunal to amend the order by adding new costs or expenses or by increasing the amounts set out in the order. 2005, c. 12, s. 1 (21).

What Tribunal may consider

(15) At a hearing by the Tribunal under this section, the Tribunal shall consider only,

- (a) whether the person to whom the order was directed was, immediately before the discharge into the natural environment,
 - (i) the owner of the thing that was discharged,
 - (ii) the person having charge, management or control of the thing that was discharged, or
 - (iii) the employee or agent of the person having charge, management or control of the thing that was discharged; or
- (b) whether any of the costs or expenses specified in the order,
 - (i) do not relate to things for which the municipality or local board incurred costs or expenses for a purpose referred to in subsection (1), or
 - (ii) are unreasonable having regard to what was done. 2005, c. 12, s. 1 (21).

Appeals from Tribunal

(16) Any party to a hearing before the Tribunal under this section may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. 2005, c. 12, s. 1 (21).

Appeal to Minister

(17) A party to a hearing before the Tribunal under this section may, within 30 days after receipt of the decision of the Tribunal or within 30 days after final disposition of an appeal, if any, under subsection (16), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as the Minister considers in the public interest. 2005, c. 12, s. 1 (21).

Decision of Tribunal not automatically stayed on appeal

(18) An appeal of a decision of the Tribunal to the Divisional Court or to the Minister under this section does not stay the operation of the decision, unless the Tribunal orders otherwise. 2005, c. 12, s. 1 (21).

Divisional Court or Minister may grant or set aside stay

(19) If a decision of the Tribunal is appealed to the Divisional Court or to the Minister under this section, the Divisional Court or the Minister may,

- (a) stay the operation of the decision; or
- (b) set aside a stay ordered by the Tribunal under subsection (18). 2005, c. 12, s. 1 (21).

Right to compensation from Crown

101. (1) A person, other than a person referred to in subsection (2), entitled under clause 99 (2) (b) to compensation for reasonable cost and expense has the right, subject to the conditions prescribed by the regulations, to payment of such compensation from Her Majesty in right of Ontario.

Application of subs. (1)

(2) Subsection (1) does not give a right to payment of compensation to,

- (a) the owner of the pollutant;
- (b) the person having control of the pollutant;
- (c) a person liable at law other than under this Part for loss, damage, cost or expense arising from the spill of the pollutant;
- (d) a person that has a right under a contract to payment of the reasonable cost and expense referred to in subsection (1),

or an employee or agent of any of them.

Enforcement of right

(3) The right to payment of compensation under subsection (1) may be enforced by action in a court of competent jurisdiction.

Recovery by Crown

(4) Where compensation has been paid under subsection (1), Her Majesty in right of Ontario has the right to recover in the place of the person to whom the compensation was paid to the extent of the amount of the payment of compensation by and any costs of Her Majesty.

Idem

(5) Her Majesty in right of Ontario is entitled under subsection (4) to all rights of recovery whether under this Part or otherwise that the person has against any other person.

Idem

(6) For the purposes of subsection (4), the payment of compensation by Her Majesty in right of Ontario under subsection (1) shall not be construed to affect the right of the person under subsection 99 (2) to compensation for reasonable cost and expense so paid by Her Majesty.

Enforcement

(7) The right to compensation under subsection (4) may be enforced in a court of competent jurisdiction by Her Majesty in right of Ontario in Her Majesty's name or in the name of the person to whom the compensation has been paid.

Disentitlement

(8) A person that fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before payment of compensation under subsection (1) is disentitled to the payment.

Repayment

(9) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to the payment of compensation under subsection (1), Her Majesty in right of Ontario has the right to recover the amount of the compensation paid and the right may be enforced in a court of competent jurisdiction.

Right of insurer

(10) An insurer as defined in the *Insurance Act* only acquires its subrogated right of recovery under any law, including sections 152 and 278 of the *Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment of compensation has been made under subsection (1) when Her Majesty in right of Ontario consents in writing to a settlement in accordance with which the right of recovery is released or to the bringing of an action to enforce the right of recovery.

Where consent not obtained

(11) If an insurer referred to in subsection (10) purports to make a settlement or brings an action without the consent of Her Majesty, the insurer is liable to Her Majesty in right of Ontario in an amount equal to the amount of the payment of compensation under subsection (1) to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement.

Effect of release

(12) A release in furtherance of or in accordance with a purported settlement made without the consent of Her Majesty in right of Ontario is a nullity.

Withholding of consent

(13) Her Majesty shall not unreasonably withhold the consent referred to in subsections (10), (11) and (12), but Her Majesty may attach conditions to the consent and may revoke the consent for breach of such a condition.

Conflict

(14) This section applies despite any other law or any contract of insurance. R.S.O. 1990, c. E.19, s. 101.

Transfer of rights

102. (1) All rights of recovery of compensation of the Environmental Compensation Corporation are transferred to Her Majesty in right of Ontario. 1997, c. 7, s. 2.

Same

(2) All assets, other than rights of recovery of compensation, and liabilities of the Environmental Compensation Corporation are transferred to and assumed by Her Majesty in right of Ontario as represented by the Minister of the Environment. 1997, c. 7, s. 2; 2000, c. 26, Sched. E, s. 3 (1).

Note: No application for payment of a claim that is made to the Environmental Compensation Corporation after June 3, 1996 shall be processed and no payment shall be made pursuant to such an application. See: 1997, c. 7, s. 11.

Right of action preserved

103. (1) Despite the repeal of section 110 by the *Environmental Approvals Improvement Act*, 1997, Her Majesty in right of Ontario may start or continue a proceeding for the recovery of compensation or pursue any action under that section, as if it had not been repealed, in the place of the Environmental Compensation Corporation. 1997, c. 7, s. 2.

Repayment

(2) A person who received payment, pursuant to a certificate of the Environmental Compensation Corporation, from the Minister of Finance of Ontario for loss or damage as a result of a spill and recovers compensation from another person for the same loss or damage shall repay to the Minister of Finance an amount equal to the total amount recovered from the Minister of Finance and the other person less the financial value of the loss or damage

suffered, but the amount repayable does not exceed the payment received from the Minister of Finance. 1997, c. 7, s. 2.

Note: No application for payment of a claim that is made to the Environmental Compensation Corporation after June 3, 1996 shall be processed and no payment shall be made pursuant to such an application. See: 1997, c. 7, s. 11.

Testimony

104. Except in a proceeding under this Act or the regulations, no person who obtained information in the course of his or her duties or employment with the Environmental Compensation Corporation in connection with the administration of, or a proceeding under, this Act or the regulations is required to give testimony, other than testimony about a spill of a pollutant, in a civil suit or proceeding with regard to that information. 1997, c. 7, s. 2.

Note: No application for payment of a claim that is made to the Environmental Compensation Corporation after June 3, 1996 shall be processed and no payment shall be made pursuant to such an application. See: 1997, c. 7, s. 11.

Corporation dissolved

105. The Environmental Compensation Corporation is dissolved. 1997, c. 7, s. 2.

Note: No application for payment of a claim that is made to the Environmental Compensation Corporation after June 3, 1996 shall be processed and no payment shall be made pursuant to such an application. See: 1997, c. 7, s. 11.

106.-121. Repealed: 1997, c. 7, s. 2.

Right of recourse

122. Except as expressly provided in this Part, nothing in this Part limits or restricts any right or remedy that any person may have against another person. R.S.O. 1990, c. E.19, s. 122.

Limitation of farmers' liability

123. The liability under this Part of farmers who are owners of pollutants or persons having control of pollutants and who are members of a class prescribed by the regulations is limited to the amount prescribed by the regulations or the amount calculated in the manner prescribed by the regulations in respect of such farmers. R.S.O. 1990, c. E.19, s. 123.

PART XI CONTROL ORDERS AND STOP ORDERS

Control orders

124. (1) The Director may, where he or she is authorized by this Act to issue a control order, order the person to whom it is directed to do any one or more of the following, namely,

- (a) to limit or control the rate of discharge of the contaminant into the natural environment in accordance with the directions set out in the order;
- (b) to stop the discharge of the contaminant into the natural environment,
 - (i) permanently,
 - (ii) for a specified period, or
 - (iii) in the circumstances set out in the order;

- (c) to comply with any directions set out in the order relating to the manner in which the contaminant may be discharged into the natural environment;
- (d) to comply with any directions set out in the order relating to the procedures to be followed in the control or elimination of the discharge of the contaminant into the natural environment;
- (e) to install, replace or alter any equipment or thing designed to control or eliminate the addition, emission or discharge of the contaminant into the natural environment;
- (f) to monitor and record, both in the manner specified in the order, the discharge into the natural environment of the contaminant specified in the order and to report thereon to the Director;
- (g) to study and to report to the Director upon,
 - (i) measures to control the discharge into the natural environment of the contaminant specified in the order,
 - (ii) the effects of the discharge into the natural environment of the contaminant specified in the order,
 - (iii) the natural environment into which the contaminant specified in the order is being or is likely to be discharged; and
- (h) to report to the Director in respect of fuel, materials and methods of production used and intended to be used, and the wastes that will or are likely to be generated.

Report to Director

(2) A person required under subsection (1) to study and to report to the Director on a matter shall report to the Director in the manner, at the times and with the information specified by the Director in the order. R.S.O. 1990, c. E.19, s. 124.

Compliance with control order

125. Subject to section 140, when a copy of a control order is served upon the person to whom it is directed, that person,

- (a) shall comply with the order forthwith; or
- (b) shall, if the order sets out a future date by which it is to be complied with, comply with the order on or not later than such future date. R.S.O. 1990, c. E.19, s. 125.

Further order

126. The Director may, by a further order, amend, vary or revoke a control order made under this Act and in each case shall cause a copy of the order to be served on the person to whom the order so amended, replaced or revoked was directed. R.S.O. 1990, c. E.19, s. 126.

Where Director proposes to issue control order

127. (1) Where the Director proposes to issue a control order, the Director shall serve notice of his or her intention, together with written reasons therefor and a copy of the report of the provincial officer or other person designated under this Act upon which the reasons are based, and shall not issue the control order until fifteen days after the service thereof.

Submissions to Director

(2) The person to whom the Director intends to issue the control order may make submissions to the Director at any time before the control order is issued. R.S.O. 1990,

c. E.19, s. 127.

Content of stop order

128. The Director may, where he or she is authorized by this Act to issue a stop order, order the person to whom it is directed to immediately stop or cause the source of contaminant to stop discharging into the natural environment any contaminant either permanently or for a specific period of time. R.S.O. 1990, c. E.19, s. 128.

Form of stop order

129. A stop order shall be in writing and shall include written reasons for the order. R.S.O. 1990, c. E.19, s. 129.

Stop orders, compliance and revocation

Compliance

130. (1) When a copy of a stop order is served upon the person to whom it is directed, that person shall comply with the order immediately.

Revocation

(2) The Director may by a further order revoke a stop order and in such case shall cause a copy of the order to be served on the person to whom the stop order was directed. R.S.O. 1990, c. E.19, s. 130.

PART XII FINANCIAL ASSURANCE

Definitions, Part XII

131. In this Part,

“approval” means program approval, environmental compliance approval or renewable energy approval, and includes a permit or approval issued by a Director under the *Ontario Water Resources Act*, but does not include an approval under Part X of this Act; (“autorisation”)

“bank” means a bank named in Schedule I or Schedule II to the *Bank Act* (Canada); (“banque”)

“environmental measures” means,

- (a) one or more of the measures set out in clauses 132 (1) (a) to (c) or 132 (1.1) (a) to (c), or
- (b) one or more of the measures prescribed by the regulations under clause 176 (2.4) (i); (“mesures d’ordre environnemental”)

“financial assurance” means one or more of,

- (a) cash, in the amount specified in the approval, order, certificate of property use or a regulation made under clause 176 (2.4) (i),
- (b) a letter of credit from a bank, in the amount and terms specified in the approval, order, certificate of property use or a regulation made under clause 176 (2.4) (i),
- (c) negotiable securities issued or guaranteed by the Government of Ontario or the Government of Canada in the amount specified in the approval, order, certificate of property use or a regulation made under clause 176 (2.4) (i),
- (d) a personal bond accompanied by collateral security, each in the form, terms and amount specified in the approval, order, certificate of property use or a regulation

made under clause 176 (2.4) (i),

- (e) the bond of an insurer licensed under the *Insurance Act* to write surety and fidelity insurance in the form, terms and amount specified in the approval, order, certificate of property use or a regulation made under clause 176 (2.4) (i),
- (f) a bond of a guarantor, other than an insurer referred to in clause (e), accompanied by collateral security, each in the form, terms and amount specified in the approval, order, certificate of property use or a regulation made under clause 176 (2.4) (i),
- (g) an agreement, in the form and terms specified in the approval, order or certificate of property use, and
- (h) an agreement, in the form and terms prescribed by the regulations; (“garantie financière”)

“order” means an order by the Director under this Act, and includes an order, notice, direction, requirement or report made by a Director under the *Ontario Water Resources Act*, but does not include an order under section 136 (order for performance of environmental measures) of this Act; (“arrêté”)

“works” means an activity, facility, thing, undertaking or site in respect of which an approval or order is issued or a registration under Part II.2 is in effect. (“travaux”) R.S.O. 1990, c. E.19, s. 131; 1993, c. 27, Sched.; 1997, c. 19, s. 34; 2001, c. 17, s. 2 (6, 7); 2009, c. 12, Sched. G, s. 6; 2010, c. 16, Sched. 7, s. 2 (45-47).

Financial assurance

Approval or order

132. (1) The Director may include in an approval or order in respect of a works a requirement that the person to whom the approval is issued or the order is directed provide financial assurance to the Crown in right of Ontario for any one or more of,

- (a) the performance of any action specified in the approval or order;
- (b) the provision of temporary or permanent alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by the works to which the approval or order is related; and
- (c) measures appropriate to prevent adverse effects upon and following the cessation or closing of the works. R.S.O. 1990, c. E.19, s. 132 (1); 2005, c. 12, s. 1 (22).

Certificate of property use

(1.1) The Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,

- (a) the performance of any action specified in the certificate of property use;
- (b) the provision of temporary or permanent alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
- (c) measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates. 2001, c. 17, s. 2 (8); 2005, c. 12,

s. 1 (23).

Changes in amount of financial assurance

(2) A requirement under subsection (1) or (1.1) may provide that the financial assurance may be provided, reduced or released in stages specified in the approval, order or certificate of property use. 2001, c. 17, s. 2 (9).

Amendment of approval, order or certificate of property use

(3) The Director may amend an approval, order or certificate of property use to change a requirement as to financial assurance contained in the approval, order or certificate of property use. 2001, c. 17, s. 2 (9).

Failure to provide financial assurance

133. (1) Failure to provide financial assurance specified in an approval or in accordance with a stage specified in an approval is grounds for revocation of the approval and for an order in writing by the Director prohibiting or restricting the carrying on, operation or use of the works in respect of which the financial assurance is required. R.S.O. 1990, c. E.19, s. 133 (1).

Idem, order

(2) Failure to provide financial assurance specified in an order or in accordance with a stage specified in an order is grounds for an order in writing by the Director prohibiting or restricting the carrying on, operation or use of the works in respect of which the financial assurance is required. R.S.O. 1990, c. E.19, s. 133 (2).

Same, certificate of property use

(3) Failure to provide financial assurance specified in a certificate of property use or in accordance with a stage specified in a certificate of property use is grounds for an order in writing by the Director prohibiting or restricting the use of the property to which the certificate of property use relates. 2001, c. 17, s. 2 (10).

Return or release of financial assurance

134. (1) Upon request, part or all of the financial assurance given in respect of a works or certificate of property use may be returned or released pursuant to an order in writing by the Director. R.S.O. 1990, c. E.19, s. 134 (1); 2001, c. 17, s. 2 (11).

Grounds for order

(2) The Director may make an order mentioned in subsection (1) if satisfied that the financial assurance returned or released is not required in respect of the works or certificate of property use. R.S.O. 1990, c. E.19, s. 134 (2); 2001, c. 17, s. 2 (12).

Continuation of financial assurance

135. The Director may convert a financial assurance to cash to be held by the Crown to the same purposes as the financial assurance or otherwise realize the financial assurance unless the financial assurance is renewed at least thirty days before it would otherwise expire. R.S.O. 1990, c. E.19, s. 135.

Order for use of financial assurance

136. (1) In the circumstances set out in subsection (2), the Director by order may require the performance of environmental measures for which the Crown holds financial assurance and may require the use of the financial assurance for the performance of the environmental measures. R.S.O. 1990, c. E.19, s. 136 (1).

Basis for order

(2) The Director may make an order mentioned in subsection (1) if the Director has

reasonable and probable grounds to believe that any environmental measure required by the approval, order, certificate of property use or a regulation made under clause 176 (2.4) (i) in respect of which the financial assurance was given has not been or will not be carried out in accordance with the requirement. 2010, c. 16, Sched. 7, s. 2 (48).

Parties affected

(3) An order under this section shall be directed to,

(a) the person,

(i) to whom the approval, order or certificate of property use was issued or any other person who is bound by the approval, order or certificate of property use, or

(ii) who registered the activity prescribed by the regulations for the purposes of subsection 20.21 (1), if the financial assurance has been provided pursuant to a regulation made under clause 176 (2.4) (i); and

(b) any person that to the knowledge of the Director has provided the financial assurance for or on behalf of a person referred to in clause (a), or any successor or assignee of a person that to the knowledge of the Director has provided the financial assurance for or on behalf of a person referred to in clause (a). 2001, c. 17, s. 2 (14); 2010, c. 16, Sched. 7, s. 2 (49).

Performance

(4) Upon the issuance of an order by the Director under subsection (1), the Crown may,

(a) use any cash;

(b) realize any bond or other form of security, and use the money derived therefrom; and

(c) enforce any agreement,

provided or obtained as the financial assurance for the performance of the environmental measures and may carry out the environmental measures. R.S.O. 1990, c. E.19, s. 136 (4).

PART XIII APPEALS TO TRIBUNAL

137. Repealed: 2000, c. 26, Sched. F, s. 12 (8).

Notice to municipalities, certain orders and decisions

138. When the Director makes an order or decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the order or decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the order or decision requires something to be done, permits something to be done or prohibits something from being done. R.S.O. 1990, c. E.19, s. 138.

Notice of decisions, general

When Director refuses approval, etc.

139. (1) When the Director,

(a) refuses to give his or her approval of plans and specifications;

(b) requires a condition precedent to the giving of his or her approval;

- (c) refuses to issue an environmental compliance approval or renewable energy approval;
- (d) refuses to renew a renewable energy approval;
- (e) suspends or revokes an environmental compliance approval or renewable energy approval; or
- (f) issues a certificate of property use,

the Director shall serve notice upon the applicant or holder, as the case may be, together with written reasons therefor, and the applicant or holder may, by written notice served upon the Director and the Tribunal within fifteen days after the service of the notice, require a hearing by the Tribunal. R.S.O. 1990, c. E.19, s. 139 (1); 2000, c. 26, Sched. F, s. 12 (12); 2001, c. 17, s. 2 (15); 2009, c. 12, Sched. G, s. 7 (1); 2010, c. 16, Sched. 7, s. 2 (50).

When Director refuses licence, permit or approval

(2) When the Director,

- (a) refuses to issue or renew or revokes or suspends a licence, permit or approval;
- (b) imposes terms and conditions in issuing an environmental compliance approval;
- (c) imposes terms and conditions in issuing or renewing a renewable energy approval, licence, permit or approval;
- (d) alters the terms and conditions in an environmental compliance approval, renewable energy approval, certificate of property use, licence or permit or approval after it is issued; or
- (e) imposes new terms and conditions in an environmental compliance approval, renewable energy approval or certificate of property use,

the Director shall serve notice together with written reasons therefor upon the applicant or the person to whom the licence, permit, approval, environmental compliance approval, renewable energy approval or certificate of property use is issued, as the case may be, and the applicant or person may, by written notice served upon the Director and the Tribunal within 15 days after the service of the notice, require a hearing by the Tribunal. 2007, c. 7, Sched. 13, s. 1; 2009, c. 12, Sched. G, s. 7 (2, 3); 2010, c. 16, Sched. 7, s. 2 (51, 52).

Exception

(3) Subsections (1) and (2) do not apply with respect to,

- (a) a decision of the Tribunal that is implemented by the Director in accordance with subsection 20.15 (6) or 33 (4); or
- (b) terms and conditions in an environmental compliance approval as a result of an application under Part II.1, if the terms and conditions are substantially the same as those contained in an approval that was previously issued and is still in effect at the time that the decision is made in respect of the application. 2010, c. 16, Sched. 7, s. 2 (53).

No hearing, Part II.2 activity

(4) Any hearing required under this section in respect of an environmental compliance approval is discontinued if the activity in respect of which the approval or the part of the approval that is in question is prescribed by the regulations for the purposes of subsection 20.21 (1), unless the Director has issued an order under section 20.18 in respect of the activity. 2010, c. 16, Sched. 7, s. 2 (53).

Appeal of order

140. (1) A person to whom an order of the Director is directed may, by written notice served upon the Director and the Tribunal within fifteen days after service upon the person of a copy of the order, require a hearing by the Tribunal. R.S.O. 1990, c. E.19, s. 140 (1); 2000, c. 26, Sched. F, s. 12 (12).

Failure or refusal to issue, etc., order

(2) No failure or refusal to issue, amend, vary or revoke an order is an order. R.S.O. 1990, c. E.19, s. 140 (2).

Extension of time for requiring hearing

141. The Tribunal shall extend the time in which a person may give a notice under section 139 or 140 requiring a hearing on an order or decision where, in the Tribunal's opinion, it is just to do so because service of the order or decision on the person did not give the person notice of the order or decision. R.S.O. 1990, c. E.19, s. 141; 2000, c. 26, Sched. F, s. 12 (12).

Contents of notice requiring hearing

142. (1) An applicant for a hearing by the Tribunal shall state in the notice requiring the hearing,

- (a) the portions of the order, certificate of property use, direction, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and
- (b) the grounds on which the applicant for the hearing intends to rely at the hearing. R.S.O. 1990, c. E.19, s. 142 (1); 2000, c. 26, Sched. F, s. 12 (12); 2001, c. 17, s. 2 (18).

Effect of contents of notice

(2) Except with leave of the Tribunal, at a hearing by the Tribunal an applicant is not entitled to appeal a portion of the order, certificate of property use, direction, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing. R.S.O. 1990, c. E.19, s. 142 (2); 2000, c. 26, Sched. F, s. 12 (12); 2001, c. 17, s. 2 (19).

Leave by Tribunal

(3) The Tribunal may grant the leave referred to in subsection (2) where the Tribunal is of the opinion that to do so is proper in the circumstances, and the Tribunal may give such directions as the Tribunal considers proper consequent upon the granting of the leave. R.S.O. 1990, c. E.19, s. 142 (3); 2000, c. 26, Sched. F, s. 12 (12).

Non-application, s. 142.1 hearing

(4) This section does not apply in the case of a hearing required under section 142.1. 2009, c. 12, Sched. G, s. 8.

Hearing re renewable energy approval

142.1 (1) This section applies to a person resident in Ontario who is not entitled under section 139 to require a hearing by the Tribunal in respect of a decision made by the Director under section 47.5. 2009, c. 12, Sched. G, s. 9.

Same

(2) A person mentioned in subsection (1) may, by written notice served upon the Director and the Tribunal within 15 days after a day prescribed by the regulations, require a

hearing by the Tribunal in respect of a decision made by the Director under clause 47.5 (1) (a) or subsection 47.5 (2) or (3). 2009, c. 12, Sched. G, s. 9.

Grounds for hearing

(3) A person may require a hearing under subsection (2) only on the grounds that engaging in the renewable energy project in accordance with the renewable energy approval will cause,

- (a) serious harm to human health; or
 - (b) serious and irreversible harm to plant life, animal life or the natural environment.
- 2009, c. 12, Sched. G, s. 9.

Contents of notice requiring hearing, s. 142.1 hearing

142.2 (1) An applicant for a hearing required under section 142.1 shall state in the notice requiring the hearing,

- (a) a description of how engaging in the renewable energy project in accordance with the renewable energy approval will cause,
 - (i) serious harm to human health, or
 - (ii) serious and irreversible harm to plant life, animal life or the natural environment;
- (b) the portion of the renewable energy approval in respect of which the hearing is required; and
- (c) the relief sought. 2009, c. 12, Sched. G, s. 10.

Effect of contents of notice, s. 142.1 hearing

(2) Except with leave of the Tribunal, at a hearing by the Tribunal an applicant mentioned in subsection (1) is not entitled to appeal a portion of the renewable energy approval that is not stated in the applicant's notice requiring the hearing. 2009, c. 12, Sched. G, s. 10.

Leave by Tribunal, s. 142.1 hearing

(3) The Tribunal may grant the leave referred to in subsection (2) where the Tribunal is of the opinion that to do so is proper in the circumstances, and the Tribunal may give such directions as the Tribunal considers proper consequent upon the granting of the leave. 2009, c. 12, Sched. G, s. 10.

No automatic stay on appeal

143. (1) The commencement of a proceeding before the Tribunal under this Part does not stay the operation of a decision or order made under this Act, other than,

- (a) an order to pay costs and expenses under section 99.1;
- (b) an order to pay the costs of work made under section 150;
- (c) an order to pay an environmental penalty; or
- (d) an order to pay an administrative penalty. 2005, c. 12, s. 1 (24); 2010, c. 16, Sched. 7, s. 2 (54).

Tribunal may grant stay

(2) The Tribunal may, on the application of a party to a proceeding before it, stay the operation of a decision or order, other than,

- (a) an order to monitor, record and report; or
- (b) an order issued under section 168.8, 168.14 or 168.20. 2001, c. 17, s. 2 (20).

When stay may not be granted

(3) The Tribunal shall not stay the operation of a decision or order if doing so would result in,

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. R.S.O. 1990, c. E.19, s. 143 (3); 2000, c. 26, Sched. F, s. 12 (12).

Right to apply to remove stay: new circumstances

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Tribunal may grant the application. R.S.O. 1990, c. E.19, s. 143 (4); 2000, c. 26, Sched. F, s. 12 (12).

Right to apply to remove stay: new party

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party, apply for the removal of the stay, and the Tribunal may grant the application. R.S.O. 1990, c. E.19, s. 143 (5); 2000, c. 26, Sched. F, s. 12 (12); 2009, c. 19, s. 67 (3).

Removal of stay by Tribunal

(6) The Tribunal, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c). R.S.O. 1990, c. E.19, s. 143 (6); 2000, c. 26, Sched. F, s. 12 (12).

144. Repealed: 2005, c. 12, s. 1 (25).

Parties to hearing

145. (1) The person requiring the hearing, the Director and any other person specified by the Tribunal are parties to the hearing. R.S.O. 1990, c. E.19, s. 145 (1); 2000, c. 26, Sched. F, s. 12 (12).

Same, s. 142.1 hearing

(2) In the case of a hearing required under section 142.1, the holder of the renewable energy approval is a party to the hearing. 2009, c. 12, Sched. G, s. 11.

Costs specified in order to pay may be increased by Tribunal

145.1 At a hearing by the Tribunal under this Part on an order to pay costs or expenses under section 99.1 or 150, the Director may, on reasonable notice to all parties, ask the Tribunal to amend the order by adding new costs or expenses or by increasing the amounts set out in the order. 2005, c. 12, s. 1 (26).

Powers of Tribunal

145.2 (1) Subject to sections 145.3 and 145.4, a hearing by the Tribunal under this Part shall be a new hearing and the Tribunal may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing and may by order direct the Director to take such action as the Tribunal considers the Director should take in accordance with this Act

and the regulations, and, for such purposes, the Tribunal may substitute its opinion for that of the Director. 2005, c. 12, s. 1 (26).

Non-application of subs. (1)

[\(2\)](#) Subsection (1) does not apply in respect of a hearing required under section 142.1. 2009, c. 12, Sched. G, s. 12.

Hearing required under s. 142.1

[145.2.1 \(1\)](#) This section applies to a hearing required under section 142.1. 2009, c. 12, Sched. G, s. 13.

What Tribunal must consider

[\(2\)](#) The Tribunal shall review the decision of the Director and shall consider only whether engaging in the renewable energy project in accordance with the renewable energy approval will cause,

- (a) serious harm to human health; or
- (b) serious and irreversible harm to plant life, animal life or the natural environment. 2009, c. 12, Sched. G, s. 13.

Onus of proof

[\(3\)](#) The person who required the hearing has the onus of proving that engaging in the renewable energy project in accordance with the renewable energy approval will cause harm referred to in clause (2) (a) or (b). 2009, c. 12, Sched. G, s. 13.

Powers of Tribunal

[\(4\)](#) If the Tribunal determines that engaging in the renewable energy project in accordance with the renewable energy approval will cause harm referred to in clause (2) (a) or (b), the Tribunal may,

- (a) revoke the decision of the Director;
- (b) by order direct the Director to take such action as the Tribunal considers the Director should take in accordance with this Act and the regulations; or
- (c) alter the decision of the Director, and, for that purpose, the Tribunal may substitute its opinion for that of the Director. 2009, c. 12, Sched. G, s. 13.

Same

[\(5\)](#) The Tribunal shall confirm the decision of the Director if the Tribunal determines that engaging in the renewable energy project in accordance with the renewable energy approval will not cause harm described in clause (2) (a) or (b). 2009, c. 12, Sched. G, s. 13.

Deemed confirmation of decision

[\(6\)](#) The decision of the Director shall be deemed to be confirmed by the Tribunal if the Tribunal has not disposed of the hearing in respect of the decision within the period of time prescribed by the regulations. 2009, c. 12, Sched. G, s. 13.

Consistency with policies

[145.2.2](#) A decision or order of the Tribunal under this Part in respect of a renewable energy approval shall be consistent with any policies issued by the Minister under section 47.7 that are in effect on the date of the Director's decision. 2009, c. 12, Sched. G, s. 13.

What Tribunal may consider at hearing to pay costs

[145.3 \(1\)](#) At a hearing by the Tribunal on an order under subsection 99.1 (1) to a person to pay the costs and expenses of doing things, the Tribunal shall consider only,

- (a) whether the person to whom the order was directed was, immediately before the discharge into the natural environment,
 - (i) the owner of the thing that was discharged,
 - (ii) the person having charge, management or control of the thing that was discharged, or
 - (iii) the employee or agent of the person having charge, management or control of the thing that was discharged; or
- (b) whether any of the costs or expenses specified in the order,
 - (i) do not relate to things for which Her Majesty in right of Ontario incurred costs or expenses for a purpose referred to in subsection 99.1 (1), or
 - (ii) are unreasonable having regard to what was done. 2005, c. 12, s. 1 (26).

Same

(2) At a hearing by the Tribunal on an order under subsection 150 (1) or (2.1) to a person to pay the costs of doing things, the Tribunal shall consider only whether any of the costs specified in the order,

- (a) do not relate to a thing that the person was required to do by an order or decision made under this Act, as amended by any Tribunal decision or on any appeal from a Tribunal decision; or
- (b) are unreasonable having regard to what was done. 2005, c. 12, s. 1 (26).

Same, receiver or trustee in bankruptcy

(3) For the purpose of subsection (2), if the order under subsection 150 (1) or (2.1) was issued to a receiver or trustee in bankruptcy,

- (a) the receiver or trustee in bankruptcy shall be deemed to have been required to do any thing that was required to be done by the person whose property the receiver or trustee in bankruptcy holds or administers; and
- (b) the receiver or trustee in bankruptcy shall be deemed to have been required to do a thing that, pursuant to subsection 19 (5) or 168.20 (7), the receiver or trustee in bankruptcy was not required to do. 2005, c. 12, s. 1 (26).

Amount of environmental penalties

145.4 (1) For greater certainty, if a hearing by the Tribunal is required under section 140 in respect of an order to pay an environmental penalty, the regulations made under clause 182.1 (15) (d) governing the determination of the amounts of environmental penalties apply to the Tribunal. 2005, c. 12, s. 1 (27).

Amount of administrative penalties

(1.1) For greater certainty, if a hearing by the Tribunal is required under section 140 in respect of an order to pay an administrative penalty, the regulations made under clause 182.3 (13) (b) governing the determination of the amounts of administrative penalties apply to the Tribunal. 2010, c. 16, Sched. 7, s. 2 (55).

Same

(2) Subject to subsection (1), if a hearing by the Tribunal is required under section 140 in respect of an order to pay an environmental penalty or an administrative penalty, the Tribunal shall not substitute its opinion for that of the Director with respect to the amount of the penalty unless the Tribunal considers the amount to be unreasonable. 2005, c. 12,

s. 1 (27); 2010, c. 16, Sched. 7, s. 2 (56).

Onus for certain proceedings that relate to discharges

145.5 (1) This section applies to a hearing by the Tribunal under this Part if,

- (a) the hearing was required by a regulated person;
- (b) the order that is the subject of the hearing is,
 - (i) an order made under subsection 182.1 (1), or
 - (ii) an order made under section 157, an order made under section 157.2 that amends an order made under section 157, or an order made under section 157.3 that confirms or alters an order made under section 157, unless the contravention in respect of which the order is made is prescribed by the regulations made under section 182.1 as a contravention in respect of which an order may not be issued under subsection 182.1 (1); and
- (c) the order that is the subject of the hearing relates to a contravention described in clause 182.1 (1) (a). 2005, c. 12, s. 1 (27).

Contraventions of s. 14

(2) If this section applies to a hearing and the order that is the subject of the hearing relates to a contravention of section 14, the person who required the hearing has the onus of proving that the discharge of the contaminant into the natural environment did not cause and could not have caused an adverse effect. 2005, c. 12, s. 1 (27).

Contraventions of s. 93

(3) If this section applies to a hearing and the order that is the subject of the hearing relates to a contravention of section 93, the person who required the hearing has the onus of proving that,

- (a) the discharge of the pollutant was not abnormal in quality or quantity in light of all the circumstances of the discharge;
- (b) the pollutant that was spilled did not cause and was not likely to cause an adverse effect; or
- (c) forthwith after the pollutant was spilled, the person did everything practicable to prevent, eliminate and ameliorate the adverse effect and to restore the natural environment. 2005, c. 12, s. 1 (27).

Contraventions of other discharge provisions

(4) If this section applies to a hearing and the order that is the subject of the hearing relates to a discharge into the natural environment in contravention of a provision referred to in subclause 182.1 (1) (a) (iii), (iv) or (v), the person who required the hearing has the onus of proving that the person did not contravene the provision. 2005, c. 12, s. 1 (27).

Appeals from Tribunal

145.6 (1) Any party to a hearing before the Tribunal under this Part may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. 2005, c. 12, s. 1 (28).

Appeal to Minister

(2) A party to a hearing before the Tribunal under this Part may, within 30 days after receipt of the decision of the Tribunal or within 30 days after final disposition of an appeal, if any, under subsection (1), appeal in writing to the Minister on any matter other than a

question of law and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as the Minister considers in the public interest. 2005, c. 12, s. 1 (28).

Decision of Tribunal not automatically stayed on appeal

(3) An appeal of a decision of the Tribunal to the Divisional Court or to the Minister under this section does not stay the operation of the decision, unless the Tribunal orders otherwise. 2005, c. 12, s. 1 (28).

Divisional Court or Minister may grant or set aside stay

(4) If a decision of the Tribunal is appealed to the Divisional Court or to the Minister under this section, the Divisional Court or the Minister may,

- (a) stay the operation of the decision; or
- (b) set aside a stay ordered by the Tribunal under subsection (3). 2005, c. 12, s. 1 (28).

PART XIV WORK DONE BY MINISTRY

Minister may cause things to be done

146. Where an order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the order or decision. R.S.O. 1990, c. E.19, s. 146.

Director may cause things to be done

147. (1) Where an order or decision made under this Act is not stayed, the Director may cause to be done any thing required by it if,

- (a) a person required by the order or decision to do the thing,
 - (i) has refused to comply with or is not complying with the order or decision,
 - (ii) is not likely, in the Director's opinion, to comply with the order or decision promptly,
 - (iii) is not likely, in the Director's opinion, to carry out the order or decision competently, or
 - (iv) requests the assistance of the Director in complying with the order or decision;
- (a.1) a receiver or trustee in bankruptcy is not required to do the thing because of subsection 19 (5) or 168.20 (7); or
- (b) in the Director's opinion, it would be in the public interest to do so. R.S.O. 1990, c. E.19, s. 147 (1); 2001, c. 17, s. 2 (21).

Notice of intent to cause things to be done

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1),

- (a) to each person required by an order or decision made under this Act to do the thing; and
- (b) if a receiver or trustee in bankruptcy is not required to do the thing because of subsection 19 (5) or 168.20 (7), to the receiver or trustee in bankruptcy. 2001, c. 17, s. 2 (22).

Idem

(3) A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the Director. R.S.O. 1990, c. E.19, s. 147 (3).

Person liable unknown: Director may cause things to be done

148. Where the Director is authorized by this Act to make a decision or order requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done. R.S.O. 1990, c. E.19, s. 148.

Parts XV.1 and XV.2: Director may cause things to be done

148.1 (1) If, but for Part XV.1 or XV.2, the Minister, the Director or a provincial officer would be authorized by this Act to make an order requiring a person to do a thing, the Director may cause the thing to be done. 2001, c. 17, s. 2 (23).

Same

(2) Subsection (1) applies even if the Director is authorized to make an order requiring another person to do the thing. 2001, c. 17, s. 2 (23).

Powers of entry for ss. 146 to 148.1

Entry without judicial order

149. (1) A person who is responsible for doing a thing under section 146, 147, 148 or 148.1 may, for the purpose, enter on or into any land or place on or in which the thing is to be done and any adjacent land or place without an order if,

- (a) the entry is made with the consent of an occupier or owner of the land or place; or
- (b) the delay necessary to obtain an order under subsection (2) would result in,
 - (i) danger to the health or safety of any person,
 - (ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it, or
 - (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 1998, c. 35, s. 13 (1); 2001, c. 17, s. 2 (24).

Order authorizing entry

(2) A justice who is satisfied on evidence under oath that there is reasonable ground to believe that entry on land or into or on a place is necessary for the purpose of doing a thing under section 146, 147, 148 or 148.1, may issue an order authorizing the person named in the order to make the entry and do the thing. 1998, c. 35, s. 13 (1); 2001, c. 17, s. 2 (25).

Execution and expiry of order

(3) An order issued under subsection (2) shall,

- (a) specify the times, which may be 24 hours each day, during which the order may be carried out; and
- (b) state when the order expires. 1998, c. 35, s. 13 (1).

Renewal

(4) Before or after the order expires, a justice may renew the order, for such additional periods as the justice considers necessary. 1998, c. 35, s. 13 (1).

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter land or a place for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing. R.S.O. 1990, c. E.19, s. 149 (5); 1998, c. 35, s. 13 (2).

Assistance

(6) A person named in an order issued under subsection (2) may call on any other persons he or she considers advisable to execute the order. R.S.O. 1990, c. E.19, s. 149 (6); 1998, c. 35, s. 13 (3).

Application without notice

(7) A justice may receive and consider an application for an order or renewal of an order under this section without notice to the owner or occupier of the land or place. 1998, c. 35, s. 13 (4).

Identification

(8) On the request of an owner or occupier of the land or place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry. R.S.O. 1990, c. E.19, s. 149 (8); 1998, c. 35, s. 13 (5).

Order to pay

150. (1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by an order or decision made under this Act to do the thing. R.S.O. 1990, c. E.19, s. 150 (1).

Idem

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a decision or order requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person. R.S.O. 1990, c. E.19, s. 150 (2).

Same

(2.1) If the Minister or Director has caused any thing to be done under this Act in circumstances where, pursuant to subsection 19 (5) or 168.20 (7) or a stay granted under Part I of the *Bankruptcy and Insolvency Act* (Canada), a receiver or trustee in bankruptcy was not required to do the thing, the Director may issue an order to the receiver or trustee in bankruptcy to pay the costs of doing the thing. 2001, c. 17, s. 2 (26).

Same

(2.2) If an order to pay the costs of doing a thing is issued under subsection (1), (2) or (2.1) to a receiver or trustee in bankruptcy, the receiver or trustee in bankruptcy is not personally liable for those costs unless the order or decision that required the thing to be done arose from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy or of a receiver representative or trustee in bankruptcy representative. 2001, c. 17, s. 2 (26).

Order to pay: contents

- (3) An order under subsection (1), (2) or (2.1) to pay costs shall include,
- (a) a description of things that the Minister or Director caused to be done under this Act;
 - (b) a detailed account of the costs incurred in doing the things; and
 - (c) a direction that the person to whom the order is issued pay the costs to the Minister of Finance. R.S.O. 1990, c. E.19, s. 150 (3); 2001, c. 9, Sched. G, s. 5 (22); 2001, c. 17, s. 2 (27).

Idem

- (4) An order under subsection (2) to pay costs shall also include a brief statement of

the circumstances giving rise to the decision to cause the things to be done. R.S.O. 1990, c. E.19, s. 150 (4).

Joint and several liability

(5) Where two or more persons are liable to pay costs pursuant to an order under subsection (1), (2) or (2.1), they are jointly and severally liable to Her Majesty in right of Ontario. 2005, c. 12, s. 1 (29).

Contribution and indemnity

(6) Where the Director is entitled to issue an order to two or more persons under subsection (1), (2) or (2.1) in respect of costs, as between themselves, in the absence of an express or implied contract, each of those persons is liable to make contribution to and indemnify the other in accordance with the following principles:

1. Where the Director is entitled to issue an order to two or more persons under subsection (1), (2) or (2.1) in respect of costs and one or more of them caused or contributed to the costs by fault or negligence, such one or more of them shall make contribution to and indemnify,
 - i. where one person is found at fault or negligent, any other person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1), and
 - ii. where two or more persons are found at fault or negligent, each other and any other person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) in the degree in which each of such two or more persons caused or contributed to the costs by fault or negligence.
2. For the purpose of subparagraph 1 ii, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) caused or contributed to the costs, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) caused or contributed to the costs by fault or negligence, each of the persons to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances. 2005, c. 12, s. 1 (29).

Enforcement of contribution

(7) The right to contribution or indemnification under subsection (6) may be enforced by action in a court of competent jurisdiction. 2005, c. 12, s. 1 (29).

Adding parties

(8) Wherever it appears that a person not already a party to an action under subsection (7) may be a person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) in respect of the costs, the person may be added as a party defendant to the action on such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of court for adding third parties. 2005, c. 12, s. 1 (29).

151. Repealed: 2005, c. 12, s. 1 (30).

152. Repealed: 2005, c. 12, s. 1 (31).

Order to pay may be enforced as judgment of the Superior Court of Justice

153. (1) An order to pay costs may be filed with a local registrar of the Superior Court of Justice and enforced as if it were an order of the court. R.S.O. 1990, c. E.19, s. 153 (1); 2001, c. 9, Sched. G, s. 5 (21).

Interest

(2) Section 129 of the *Courts of Justice Act*, applies in respect of an order filed with the Superior Court of Justice under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. R.S.O. 1990, c. E.19, s. 153 (2); 2001, c. 9, Sched. G, s. 5 (21).

Collection of costs as tax lien

154. (1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on real property is a thing done in connection with that property, whether or not the work is done on that property. R.S.O. 1990, c. E.19, s. 154 (1).

Lien

(2) If an order to pay costs is directed to a person who owns real property in a local municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that property, the municipality shall have a lien on the property for those amounts and they shall have priority lien status, as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be, in respect of the property and shall be added by the treasurer of the municipality to the tax roll. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 19 (2).

Same

(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 379 (7) (b) of the *Municipal Act, 2001* or clause 350 (7) (b) of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 19 (3).

Idem

(4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Minister of Finance. R.S.O. 1990, c. E.19, s. 154 (4); 2001, c. 9, Sched. G, s. 5 (22).

Interpretation

(5) In subsections (6) and (7),

“cancellation price” has the same meaning as in Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 19 (4).

Proceeds of tax sale

(6) Where there is a sale of land under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006* and amounts are payable out of the proceeds to the Minister of Finance under this Act, the *Fire Protection and Prevention Act, 1997* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. R.S.O. 1990, c. E.19, s. 154 (6); 2001, c. 9, Sched. G, s. 5 (7); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 19 (5).

Cancellation price

(7) Despite Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, the treasurer of a municipality may sell land under those Parts for less than the

cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Fire Protection and Prevention Act, 1997* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 19 (6).

Collection, territory without municipal organization

(8) If an order to pay costs is directed to a person who owns real property in territory without municipal organization and if the Director gives written notice to the Minister of Finance of the amounts specified in the order that relate to things done in connection with the property and requests that the amounts be collected under the *Provincial Land Tax Act, 2006*, the amounts may be collected under that Act as if they were taxes imposed under it. 2006, c. 33, Sched. Z.3, s. 10.

Identification of amounts

(9) An instruction under subsection (2) or a notice under subsection (8) shall state which of the amounts specified in the applicable order relate to things done in connection with the property. 2006, c. 33, Sched. Z.3, s. 10.

Costs may be recovered from deposit or financial assurance

155. Where an order to pay costs is directed to a person who has given a deposit under a regulation or is in respect of works or property for which financial assurance is required under Part XII or a regulation made under clause 176 (2.4) (i), the deposit or financial assurance may be used to recover amounts specified in the order to pay costs. 2010, c. 16, Sched. 7, s. 2 (57).

PART XV PROVINCIAL OFFICERS

Inspection by provincial officer

156. (1) For the administration of this Act or the regulations, a provincial officer may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, including,

- (a) entering any part of the natural environment to ascertain the extent, if any, to which contaminants have caused an adverse effect, the causes for any adverse effect, and how any adverse effect may be prevented, eliminated or ameliorated and the natural environment restored;
- (b) entering any place in which the provincial officer reasonably believes can be found anything that is governed or regulated under this Act or anything the dealing with which is governed or regulated under this Act;
- (c) entering any place in or from which the provincial officer reasonably believes a contaminant is being, has been or may be discharged into the natural environment;
- (d) entering any place that the provincial officer reasonably believes is likely to contain documents related to,
 - (i) an activity or undertaking that is, or is required to be the subject of a permit, licence, approval, environmental compliance approval, certificate of property use, renewable energy approval, program approval, agreement or order under this Act,

- (ii) an activity that is or is required to be registered under Part II.2,
- (ii.1) an activity or undertaking that is exempted by a regulation from any requirement to have a permit, licence, environmental compliance approval or renewable energy approval under this Act that is regulated by the provisions of the regulation, or
- (iii) the discharge of a contaminant into the natural environment;
- (e) entering any place that the provincial officer reasonably believes,
 - (i) is, or is required to be, subject to or referred to in a permit, licence, approval, environmental compliance approval, certificate of property use, renewable energy approval, program approval, agreement or order under this Act,
 - (ii) is or is required to be subject to or referred to in a registration under Part II.2, or
 - (iii) is subject to or referred to in a regulation that provides for an exemption from any requirement to have a permit, licence, environmental compliance approval or renewable energy approval under this Act where the regulation includes provisions that regulate the place;
- (e.1) entering any property for which a record of site condition has been submitted for filing or has been filed in the Environmental Site Registry established under section 168.3 for the purpose of sampling, testing or examining anything referred to in the record of site condition;
- (f) entering any place where a motor, motor vehicle or beverage container regulated under this Act is stocked, displayed, sold or offered for sale, to carry out his or her duties under Part III or IX, as the case may be;
- (g) entering any establishment for the repair of motors or motor vehicles, to carry out his or her duties under Part III;
- (h) entering any ice shelter to carry out his or her duties under Part IV;
- (i) entering any abandoned motor vehicle to carry out his or her duties under Part VII;
- (j) entering any place where the provincial officer reasonably believes the permit and plates of a vehicle may be found, in order to seize them in accordance with section 48 or 49; and
- (k) entering any place where a pollutant as defined in Part X is spilled. 1998, c. 35, s. 14 (1); 2001, c. 17, s. 2 (30-32); 2005, c. 12, s. 1 (32, 33); 2007, c. 7, Sched. 13, s. 2; 2009, c. 12, Sched. G, s. 14; 2010, c. 16, Sched. 7, s. 2 (58, 59).

Same

- (2) During an inspection under subsection (1), the provincial officer may,
- (a) make necessary excavations;
 - (b) require that any thing be operated, used or set in motion under conditions specified by the provincial officer;
 - (c) take samples for analysis;
 - (d) conduct tests or take measurements;
 - (e) examine, record or copy any document or data, in any form, by any method;

- (f) record the condition of a place or the natural environment by means of photograph, video recording or other visual recording;
- (g) require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purposes of the inspection;
- (h) remove from a place documents or data, in any form, produced under clause (g) for the purpose of making copies; and
- (i) make reasonable inquiries of any person, orally or in writing. 1998, c. 35, s. 14 (2).

Limitation re records

[\(3\)](#) A record made under clause (2) (f) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 1998, c. 35, s. 14 (2).

Limitation re removal of documents, data

[\(3.1\)](#) A provincial officer shall not remove documents or data under clause (2) (h) without giving a receipt for them and shall promptly return the documents or data to the person who produced them. 1998, c. 35, s. 14 (2).

Power to exclude persons

[\(4\)](#) A provincial officer who exercises the power set out in clause (2) (i) may exclude from the questioning any person except counsel for the individual being questioned. R.S.O. 1990, c. E.19, s. 156 (4); 1998, c. 35, s. 14 (3); 2009, c. 33, Sched. 15, s. 5 (1).

Entry to dwellings

[\(5\)](#) A person shall not exercise a power conferred by this Act to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order under section 158. R.S.O. 1990, c. E.19, s. 156 (5).

[\(6\)](#) Repealed: 1998, c. 35, s. 14 (4).

Power to inspect vehicle or vessel

[156.1 \(1\)](#) In this section,

“vehicle” includes a trailer or other equipment attached to the vehicle. 1998, c. 35, s. 15.

Requirement to stop

[\(2\)](#) For the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop. 1998, c. 35, s. 15.

Same

[\(3\)](#) On the provincial officer’s signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop. 1998, c. 35, s. 15.

Same

[\(4\)](#) For the purposes of this section, a signal to stop includes,

- (a) intermittent flashes of red light, in the case of a vehicle;
- (b) intermittent flashes of blue light, in the case of a vessel; and
- (c) a hand signal to stop by a provincial officer who is readily identifiable as a provincial officer. 1998, c. 35, s. 15.

Sign to report

[\(5\)](#) Where a clearly marked sign is posted indicating that a class of vehicles or vessels

should report to a certain place in the vicinity of the sign, the operator of a vehicle or vessel that passes the sign and that falls within the class of vehicles or vessels indicated shall report forthwith to the place the sign directs. 1998, c. 35, s. 15.

Same

(6) Where the operator of a vehicle or vessel stops under subsection (3) or reports under subsection (5), the provincial officer may make any reasonable inquiries of the operator and the operator shall produce for inspection any documents related to the operation or ownership of the vehicle or vessel, including licenses, permits and any documents that are required to be kept by the law of any jurisdiction in relation to the carriage of any cargo or container. 1998, c. 35, s. 15.

Inspection powers

(7) Based on questioning or examination of documents conducted under subsection (6), the provincial officer may, without warrant or court order, inspect any means of containment that the provincial officer reasonably believes is being used for the handling or transportation of a thing the handling or transportation of which is governed or regulated under this Act, the *Dangerous Goods Transportation Act* or the *Transportation of Dangerous Goods Act, 1992*, (Canada). 1998, c. 35, s. 15; 2009, c. 19, s. 67 (4).

Same

(8) As part of an inspection under subsection (7), the provincial officer may open or require the operator to open any cargo hold, container or other means of containment. 1998, c. 35, s. 15.

Same

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise such powers under subsection 156 (2) as are reasonably required for the administration of this Act or the regulations. 1998, c. 35, s. 15.

Same

(10) Subsections 156 (3), (3.1), (4) and (5) apply to the exercise of a power under subsection (9). 1998, c. 35, s. 15.

Power to administer other Acts

156.2 A provincial officer who exercises any power set out in section 156, 156.1, 160, 161 or 161.1 may, if the provincial officer is designated as such under the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act* or the *Pesticides Act*, as the case may be, do anything authorized by,

- (a) section 13, 14 or 23 of the *Nutrient Management Act, 2002*;
- (b) section 15, 15.1, 19, 20 or 20.1 of the *Ontario Water Resources Act*;
- (c) section 19, 19.1, 22, 23 or 23.1 of the *Pesticides Act*;
- (d) section 81, 82, 91, 92 or 93 of the *Safe Drinking Water Act, 2002*; or
- (e) section 15, 20 or 21 of the *Toxics Reduction Act, 2009*. 2002, c. 4, s. 62 (3); 2009, c. 19, s. 67 (5).

Note: On the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force, clause (e) is amended by striking out “section 15, 20 or 21” at the beginning and substituting “section 15, 20, 20.1 or 21”. See: 2009, c. 19, ss. 67 (6), 73 (2).

Identification

156.3 On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer either by the production of a copy of his or her designation or in some other manner and shall explain the purpose of the exercise of the power. 1998, c. 35, s. 15.

Entry, etc., may be prohibited

156.4 (1) A provincial officer may by order prohibit entry into all or part of any land or place or prohibit the use of, interference with, disruption of, or destruction of any thing in any of the following circumstances:

1. During an inspection under section 156, 156.1 or 158.
2. During a search under section 161.
3. During the time required for the provincial officer to obtain an order under section 158 of this Act or a warrant under section 158 of the *Provincial Offences Act*.
4. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*.

Requirements for order

(2) An order under subsection (1) shall not be issued unless the provincial officer reasonably believes that,

- (a) in the case of an order prohibiting entry, there is on the land or in the place a thing that will afford evidence of an offence under this Act;
- (b) in the case of an order prohibiting the use of, interference with, disruption of, or destruction of a thing, the thing will afford evidence of an offence under this Act; or
- (c) in the case of an order prohibiting entry or an order prohibiting the use of, interference with, disruption of, or destruction of a thing, there is a discharge or a likelihood of discharge of a contaminant into the natural environment from the land, place or thing and an adverse effect has resulted or is likely to result from the discharge.

Notice of order

(3) The provincial officer shall give notice of the order in the manner that he or she considers appropriate in the circumstances.

Contents of notice

(4) Notice of the order shall include an explanation of the rights provided by subsections (6) and (7).

Order not effective where no notice

(5) An order under subsection (1) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order.

Request for rescission

(6) A person aggrieved by the order may make an oral or written request to the Director to rescind it and may make oral or written submissions to the Director in support of the request.

Powers of Director

(7) The Director shall give prompt consideration to any request or submissions made

under subsection (6) and may rescind the order.

Same

(8) For the purposes of subsection (7), the Director may substitute his or her own opinion for that of the provincial officer.

Same

(9) A Director who rescinds an order under subsection (7) shall give such directions to a provincial officer as the Director considers appropriate to bring the rescission to the attention of persons affected.

No stay

(10) A request for rescission of an order under subsection (1) does not stay the order, unless the Director orders otherwise in writing.

Duration of order

(11) An order under subsection (1) shall,

- (a) subject to clause (b), be effective for the shorter of the length of time necessary to complete the inspection or search referred to in that subsection or a period not exceeding two days excluding holidays; or
- (b) where the inspection or search referred to in subsection (1) is under an order under section 158 of this Act or under a warrant issued under section 158 of the *Provincial Offences Act* and a time limit for the inspection or search is specified in the order or warrant, be effective until the expiration of that time. 1998, c. 35, s. 15.

Order of justice prohibiting entry

156.5 (1) Where a justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground for believing that it is appropriate for the administration of this Act or the regulations or necessary to protect human health or safety or to protect property, the justice may issue an order prohibiting entry into all or part of any land or place or prohibiting the use of, interference with, disruption of, or destruction of any thing. 1998, c. 35, s. 15.

Same

(2) The prohibition under the justice's order shall, subject to subsection (3), be for such period of time as is set out in the order. 1998, c. 35, s. 15.

Expiry

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order or the day that is 30 days after the date on which the order is made. 1998, c. 35, s. 15; 2009, c. 33, Sched. 15, s. 5 (2).

Renewal

(4) An order under this section may be renewed for any reason set out in subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 1998, c. 35, s. 15.

Notice of application

(5) An initial order under subsection (1) may be issued on application without notice. 1998, c. 35, s. 15.

Same

(6) A renewal order under subsection (4) may be issued on application made with such

notice, if any, as is specified for the purpose under subsection (7). 1998, c. 35, s. 15.

Same

[\(7\)](#) In an order under subsection (1) or (4), a justice may specify notice requirements that must be met by a person applying for a renewal of the order or for a further renewal of the order, as the case may be. 1998, c. 35, s. 15.

Notice of order

[\(8\)](#) A provincial officer may give notice of an order under subsection (1) or (4) in the manner that he or she considers appropriate in the circumstances. 1998, c. 35, s. 15.

Order not effective where no notice

[\(9\)](#) An order under subsection (1) or (4) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order. 1998, c. 35, s. 15.

Securing of place, thing

[156.6](#) Where an order under section 156.4 or 156.5 is in effect, a provincial officer may take measures to secure the land, place or thing to which the order relates by means of locks, gates, fences, security guards or such other means as the provincial officer deems necessary to prevent entry into the land or place or to prevent the use of, interference with, disruption of, or destruction of the thing. 1998, c. 35, s. 15.

Order by provincial officer: contraventions

[157. \(1\)](#) A provincial officer may issue an order to any person that the provincial officer reasonably believes is contravening or has contravened,

- (a) a provision of this Act or the regulations;
- (b) a provision of an order under this Act, other than an order under section 99.1, 100.1, 150 or 182.1 or an order of a court; or
- (c) a term or condition of an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act. 1998, c. 35, s. 16; 2001, c. 17, s. 2 (33); 2005, c. 12, s. 1 (34); 2009, c. 12, Sched. G, s. 15 (1); 2009, c. 33, Sched. 15, s. 5 (3); 2010, c. 16, Sched. 7, s. 2 (60).

Contravention of s. 14

[\(1.1\)](#) Subsection (1) does not apply to a contravention of section 14 unless,

- (a) an order to pay an environmental penalty could be issued in respect of the contravention; or
- (b) the contravention involves a discharge that causes or is likely to cause an adverse effect. 2005, c. 12, s. 1 (35).

Information to be included in order

[\(2\)](#) The order shall,

- (a) specify the provision, term or condition that the provincial officer believes is being or has been contravened;
- (b) briefly describe the nature and, where applicable, the location of the contravention;
- (b.1) in the case of a contravention of section 14 for which an order to pay an environmental penalty could be issued, describe the adverse effects that were caused by or that may be caused by the contravention; and

- (c) state that a review of the order may be requested in accordance with section 157.3. 1998, c. 35, s. 16; 2005, c. 12, s. 1 (36).

What order may require

(3) The order may require the person to whom it is directed to comply with any directions set out in the order within the time specified relating to,

- (a) achieving compliance with the provision, term or condition;
- (b) preventing the continuation or repetition of the contravention;
- (c) securing, whether through locks, gates, fences, security guards or other means, any land, place or thing;
- (d) where the contravention is related to the deposit of waste, removing the waste;
- (e) where the contravention has injured, damaged or endangered animal life, plant life, human health or safety, or the natural environment or is likely to injure, damage or endanger animal life, plant life, human health or safety, or the natural environment,
 - (i) repairing the injury or damage,
 - (ii) preventing the injury or damage,
 - (iii) decreasing, eliminating or ameliorating the effects of the damage, and
 - (iv) restoring the natural environment;
- (f) where the contravention has caused damage to or endangered or is likely to cause damage to or endanger existing water supplies, providing temporary or permanent alternate water supplies;
- (g) submitting a plan for achieving compliance with the provision, term or condition, including the engagement of contractors or consultants satisfactory to a provincial officer;
- (h) submitting an application for an environmental compliance approval, renewable energy approval, licence or permit;
- (h.1) registering an activity under Part II.2;
- (i) monitoring and recording in relation to the natural environment and reporting on the monitoring and recording;
- (j) posting notice of the order; and
- (k) if the provincial officer reasonably believes that a term or condition of a renewable energy approval is being or has been contravened, doing any other thing referred to in subsection 16 (3) of the *Ontario Water Resources Act*. 1998, c. 35, s. 16; 2005, c. 12, s. 1 (37); 2009, c. 12, Sched. G, s. 15 (2, 3); 2010, c. 16, Sched. 7, s. 2 (61, 62).

Power to require response to inquiries

157.0.1 (1) For the purposes of determining compliance of a person with this Act or the regulations, a provincial officer may, at any reasonable time and with any reasonable assistance, require the person, or any person employed by or providing services to the person, to respond to reasonable inquiries. 2010, c. 16, Sched. 7, s. 2 (63).

Same

[\(2\)](#) For the purposes of subsection (1), a provincial officer may make inquiries by telephone or by any other means of communication. 2010, c. 16, Sched. 7, s. 2 (63).

Order by provincial officer re preventive measures

[157.1 \(1\)](#) A provincial officer may issue an order to any person who owns or who has management or control of an undertaking or property if the provincial officer reasonably believes that the requirements specified in the order are necessary or advisable so as,

- (a) to prevent or reduce the risk of a discharge of a contaminant into the natural environment from the undertaking or property; or
 - (b) to prevent, decrease or eliminate an adverse effect that may result from,
 - (i) the discharge of a contaminant from the undertaking, or
 - (ii) the presence or discharge of a contaminant in, on or under the property.
- 2005, c. 12, s. 1 (38).

Information to be included in order

[\(2\)](#) The order shall,

- (a) briefly describe the reasons for the order and the circumstances on which the reasons are based; and
- (b) state that a review of the order may be requested in accordance with section 157.3. 1998, c. 35, s. 16.

What the order may require

[\(3\)](#) The order may require the person to whom it is directed to comply with any directions specified under subsection (4), within the time specified. 1998, c. 35, s. 16.

Same

[\(4\)](#) The following directions may be specified in the order:

1. Any direction listed in subsection 18 (1).
2. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing. 1998, c. 35, s. 16.

Where order requires report

[\(5\)](#) Where the order requires a person to make a report, the report shall be made to a provincial officer. 1998, c. 35, s. 16.

Amendment or revocation of orders under ss. 157 and 157.1

[157.2 \(1\)](#) An order issued under section 157 or 157.1 may, by order, be amended or revoked by the provincial officer who issued it or by the Director.

Same

[\(2\)](#) A provincial officer or Director who amends or revokes an order shall give written notice of the amendment or revocation to the person to whom the order is directed. 1998, c. 35, s. 16.

Request for review, orders under ss. 157 to 157.2

[157.3 \(1\)](#) A person to whom an order under section 157, 157.1 or 157.2 is directed may, within seven days after being served with a copy of the order, request that the Director review the order. 1998, c. 35, s. 16.

Manner of making request

[\(2\)](#) The request may be made orally, with written confirmation served on the Director

within the time specified in subsection (1), or in writing. 1998, c. 35, s. 16.

Contents of request for review

(3) A written request for review under subsection (1) or a written confirmation of an oral request under subsection (2) shall include,

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the applicant for the review wishes the Director to consider; and
- (c) for the purpose of subsection (7), an address for service by mail or by electronic facsimile transmission or by such other means of service as the regulations may prescribe. 1998, c. 35, s. 16.

No automatic stay

(4) The request for review does not stay the order, unless the Director orders otherwise in writing. 1998, c. 35, s. 16.

Decision of Director

(5) A Director who receives a request for review may,

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person requesting the review, confirm or alter the order of the provincial officer. 1998, c. 35, s. 16.

Same

(6) For the purposes of subsection (5), the Director may substitute his or her own opinion for that of the provincial officer. 1998, c. 35, s. 16.

Notice of decision

(7) The Director shall serve the person requesting the review with a copy of,

- (a) a decision to revoke the order of the provincial officer; or
- (b) an order to confirm or amend the order of the provincial officer, together with reasons. 1998, c. 35, s. 16.

Automatic confirmation of order

(8) If, within seven days of receiving a written request for review or a written confirmation of an oral request for review, the Director does not make a decision under subsection (5) and give oral or written notice of the decision to the person requesting the review, the order in respect of which the review is sought shall be deemed to have been confirmed by order of the Director. 1998, c. 35, s. 16.

Same

(9) For the purpose of section 140 and a hearing required under that section, a confirming order deemed to have been made by the Director under subsection (8),

- (a) shall be deemed to be directed to each person to whom the order of the provincial officer was directed; and
- (b) shall be deemed to have been served, on each person to whom the order of the provincial officer was directed, at the expiry of the time period referred to in subsection (8). 1998, c. 35, s. 16; 2000, c. 26, Sched. F, s. 12 (12); 2005, c. 12, s. 1 (39).

Same

[\(10\)](#) Subsections (8) and (9) do not apply if, within seven days of receiving the request for review, the Director stays the order under subsection (4) and gives written notice to the person requesting the review that the Director requires additional time to make a decision under subsection (5). 2005, c. 12, s. 1 (40).

Notice by provincial officer re Part II.2

[157.4 \(1\)](#) A provincial officer may give a notice in writing to a person who is engaging in an activity prescribed by the regulations for the purposes of subsection 20.21 (1) stating that the provincial officer reasonably believes that the person is contravening or has contravened a provision of a regulation made for the purposes of Part II.2 in respect of the activity. 2010, c. 16, Sched. 7, s. 2 (64).

Contents of notice

[\(2\)](#) A notice given under subsection (1) may set out one or more measures that have been prescribed by the regulations for the purposes of this section and require the person to carry out the measures within a time specified in the notice. 2010, c. 16, Sched. 7, s. 2 (64).

Amendment or revocation of notice

[\(3\)](#) A notice given under subsection (1) may be amended or revoked by the provincial officer who gave it or by the Director by giving written notice of the amendment or revocation to the person to whom the notice given under subsection (1) is directed. 2010, c. 16, Sched. 7, s. 2 (64).

Review of notice

[\(4\)](#) A person to whom a notice is given under subsection (1) may, within seven days after being served with a copy of the notice, request that the Director review the notice. 2010, c. 16, Sched. 7, s. 2 (64).

Same

[\(5\)](#) Subsections 157.3 (2) to (8) and (10) apply, with necessary modifications, in respect of a review of a notice under this section. 2010, c. 16, Sched. 7, s. 2 (64).

Entry or inspection order

[158. \(1\)](#) A justice may issue an order authorizing a provincial officer to do anything set out in subsection 156 (1) or (2) or section 156.1 if the justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground to believe that it is appropriate for the administration of this Act or the regulations for the provincial officer to do anything set out in subsection 156 (1) or (2) or section 156.1 and that the provincial officer may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked or otherwise inaccessible;
- (b) a person has prevented the provincial officer from doing anything set out in subsection 156 (1) or (2) or section 156.1;
- (c) there is reasonable ground to believe that a person may prevent a provincial officer from doing anything set out in subsection 156 (1) or (2) or section 156.1;
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the provincial officer to obtain an order under this section without delay if access is denied; or
- (e) there is reasonable ground to believe that an attempt by the provincial officer to

do anything set out in subsection 156 (1) or (2) or section 156.1 without the order,

- (i) might not achieve its purpose, or
- (ii) might endanger human health or safety, property or the natural environment.

1998, c. 35, s. 17.

Same

(2) Subsections 156 (3), (3.1), (4) and (5) apply to an inspection under an order under this section. 1998, c. 35, s. 17.

Expiry

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order and the day that is 30 days after the date on which the order is made. 1998, c. 35, s. 17; 2009, c. 33, Sched 15, s. 5 (4).

Renewal

(4) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 1998, c. 35, s. 17.

When to be executed

(5) An order under this section shall be carried out between 6 a.m. and 9 p.m., unless the order otherwise authorizes. 1998, c. 35, s. 17.

Application without notice

(6) An order under this section may be issued or renewed on application without notice. 1998, c. 35, s. 17.

Samples and copies

159. A provincial officer may detain samples and copies obtained under section 156, 156.1 or 158 for any period and for any of the purposes of this Act and the regulations. R.S.O. 1990, c. E.19, s. 159; 1998, c. 35, s. 18.

Seizure during inspection

160. During an inspection under section 156, 156.1 or 158, a provincial officer may, without a warrant or court order, seize any thing that is produced to the provincial officer or that is in plain view, if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence under this Act;
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence; or
- (c) the thing is discharging or is likely to discharge a contaminant into the natural environment and an adverse effect has resulted or is likely to result from the discharge. 1998, c. 35, s. 19.

Warrantless search, exigent circumstances

161. (1) In this section,

“offence” means an offence under this Act related to,

- (a) the discharge of a contaminant into the natural environment that causes or is likely to cause an adverse effect, or

(b) hazardous waste or hauled liquid industrial waste.

Search by provincial officer re actual pollution

[\(2\)](#) A provincial officer may, without a search warrant, search any place other than a room actually used as a dwelling if the provincial officer has reasonable ground to believe,

- (a) that an offence has been committed;
- (b) that there is in such place any thing that will afford evidence as to the commission of the offence; and
- (c) that there are exigent circumstances that make it impractical to obtain a search warrant. R.S.O. 1990, c. E.19, s. 161 (1, 2).

Seizure during search

[\(3\)](#) During a search under subsection (2), a provincial officer may, without warrant or court order, seize any thing if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence; or
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence and that the seizure is necessary to prevent the continuation or repetition of the offence. 1998, c. 35, s. 20.

[\(4\)](#) Repealed: 1998, c. 35, s. 20.

Detention or removal, things seized

[161.1 \(1\)](#) A provincial officer who seizes any thing under section 160 or 161 may remove the thing or may detain it in the place where it is seized.

Receipt

[\(2\)](#) Where possible, the provincial officer shall inform the person from whom a thing is seized under section 160 or 161 as to the reason for the seizure and shall give the person a receipt for the thing seized. 1998, c. 35, s. 21.

Report to justice, things seized

[162. \(1\)](#) A provincial officer who seizes any thing during an inspection or search under section 160 or 161 shall bring the thing seized before a justice or, if that is not reasonably possible, shall report the seizure to a justice. 1998, c. 35, s. 22.

Application of *Provincial Offences Act*

[\(2\)](#) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized by a provincial officer during an inspection or search under section 160 or 161. R.S.O. 1990, c. E.19, s. 162 (2).

Disposition of things seized

[162.1 \(1\)](#) Where the Director believes that, given the nature of a thing seized under section 160 or 161, the thing may pose a risk to human health or safety or to property, the Director may direct the person having custody of the thing, to dispose of the thing in a manner satisfactory to the Director.

Disposition of seized perishables

[\(2\)](#) Where the person having custody of any thing seized under section 160 or 161 believes that the thing will rot, spoil or otherwise perish, the person may dispose of the thing.

Non-application of provision

(3) Section 162 does not apply to a thing disposed of in accordance with this section.

Forfeiture

(4) A thing disposed of in accordance with this section is forfeited to the Crown. 1998, c. 35, s. 23.

Notice of disposal of things seized

162.2 (1) Where a thing has been disposed of in accordance with section 162.1, the Director shall ensure that a provincial officer gives written notice of the seizure and disposal, within 15 days of the disposal,

- (a) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized; and
- (b) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner. 1998, c. 35, s. 23.

Contents of notice

(2) Notice under subsection (1) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;
- (c) the date of the seizure and disposal;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure and disposal;
- (f) a reference to the statutory provision authorizing the seizure and disposal; and
- (g) a reference to the statutory provision permitting the person to apply to the Superior Court of Justice for relief against the forfeiture. 1998, c. 35, s. 23; 2001, c. 9, Sched. G, s. 5 (21).

Forfeiture may be ordered

162.3 (1) On the application of the Director, the Superior Court of Justice may order that a thing seized under section 160 or 161 or under a warrant issued under the *Provincial Offences Act* in connection with the commission or suspected commission of an offence under this Act be forfeited to the Crown. 1998, c. 35, s. 23; 2001, c. 9, Sched. G, s. 5 (21).

Where no order to be made

(2) No order shall be made under subsection (1) unless the court is satisfied that,

- (a) the seizure was lawful; and
- (b) no later than seven days before the hearing of the application, written notice was provided by a provincial officer,
 - (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
 - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the

owner,

- (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
- (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 23.

Contents of notice

(3) Notice under subsection (2) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;
- (c) the date of the seizure;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure;
- (f) a reference to the statutory provision authorizing the seizure;
- (g) a statement that an order for forfeiture of the thing is being sought under this section; and
- (h) a statement that the person to whom the notice is provided may make submissions to the Superior Court of Justice with respect to the issuance of an order under this section. 1998, c. 35, s. 23; 2001, c. 9, Sched. G, s. 5 (21).

Disposition of things forfeited

(4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 23.

Relief against forfeiture

(5) A person who had an interest in a thing forfeited under section 162.1 or this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 23; 2001, c. 9, Sched. G, s. 5 (21).

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with an order requiring the person to pay an environmental penalty in connection with a matter that was associated with the seizure of the thing, unless the order has been revoked; or
- (b) has been charged with an offence that was associated with the seizure of the thing,

unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 23; 2005, c. 12, s. 1 (41).

Use of force

- 163.** A provincial officer may use such force as is reasonably necessary,
- (a) to carry out an order or direction issued under Part X;
 - (b) to carry out a court order issued under this Part;
 - (c) to execute a warrant issued under the *Provincial Offences Act*; or
 - (d) to prevent the destruction of any thing that the provincial officer reasonably believes may afford evidence of an offence under this Act. 1998, c. 35, s. 24.

Order by justice, use of devices, etc.

163.1 (1) In this section,

“device” means a substance or tracking device that, when placed or installed in or on any place, land or thing, may be used to help ascertain, by electronic or other means, the origin, identity or location of anything.

Order may be issued

(2) On application without notice, a justice may issue an order in writing authorizing a provincial officer, subject to this section, to use any device, investigative technique or procedure or to do any thing described in the order if the justice is satisfied by evidence under oath that there are reasonable grounds to believe that an offence against this Act has been or will be committed and that information concerning the offence will be obtained through the use of the device, technique or procedure or the doing of the thing.

Limitation

(3) An order under this section shall not authorize the interception of any private communication.

Same

(4) No device, technique or procedure shall be used to intercept any private communication under an order issued under this section.

Terms and conditions of order

(5) An order issued under this section shall contain such terms and conditions as the justice considers advisable in the circumstances.

Activities under order

- (6)** An order issued under this section may authorize a provincial officer,
- (a) to place, install, maintain or remove a device in or on any land, place or thing; and
 - (b) to monitor, or to have monitored, a device or information from a device placed or installed in or on any land, place or thing.

Duration of order

(7) An order issued under this section is valid for a period of 60 days or for such shorter period as may be specified in the order.

Further orders

(8) A justice may issue further orders under subsection (2). 1998, c. 35, s. 24.

Restoration of property

164. A provincial officer who makes or causes the making of an excavation in the

course of his or her duties under this Act shall restore the property, so far as is reasonably possible, to the condition it was in before the excavation was made. R.S.O. 1990, c. E.19, s. 164; 2005, c. 12, s. 1 (42).

Licence, etc., condition, permission to inspect

165. It is a condition of every licence, permit, environmental compliance approval, certificate of property use or renewable energy approval under this Act that the holder must forthwith on request permit provincial officers to carry out inspections authorized by the following provisions of any place, other than any room actually used as a dwelling, to which the licence, permit, environmental compliance approval, certificate of property use or renewable energy approval relates:

1. Section 156, 156.1 or 158 of this Act.
2. Section 13, 14 or 16 of the *Nutrient Management Act, 2002*.
3. Section 15, 15.1 or 17 of the *Ontario Water Resources Act*.
4. Section 19, 19.1 or 20 of the *Pesticides Act*.
5. Section 81, 82 or 89 of the *Safe Drinking Water Act, 2002*.
6. Section 15 or 18 of the *Toxics Reduction Act, 2009*. 2009, c. 19, s. 67 (15); 2010, c. 16, Sched. 7, s. 2 (65).

Note: On the later of the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force and the day the Statutes of Ontario, 2009, chapter 19, subsection 67 (15) comes into force, paragraph 6 is amended by striking out “Section 15 or 18” at the beginning and substituting “Section 15, 15.1 or 18”. See: 2009, c. 19, ss. 67 (16), 73 (3).

Records

165.1 (1) Every person required by this Act or the regulations to retain a record shall make it available to a provincial officer for inspection upon his or her request. 1992, c. 1, s. 33; 2009, c. 33, Sched. 15, s. 5 (5).

Copies or extracts

(2) The provincial officer may, on giving a receipt, remove any record referred to in subsection (1) for the purpose of making copies or extracts and shall promptly return the record. 2001, c. 17, s. 2 (35).

Records in electronic form

(3) If a record is retained in electronic form, the provincial officer may require that a copy of it be provided to him or her on paper or in a machine-readable medium or both. 2001, c. 17, s. 2 (35).

Police assistance and motor vehicle inspections

Calling for assistance of member of police force

166. (1) Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance. R.S.O. 1990, c. E.19, s. 166 (1).

Stop and inspect powers: motor vehicle emissions

(2) For the purpose of ascertaining whether a system or device installed on, attached

to or incorporated in any motor vehicle to prevent or lessen the discharge of any emission is operating in compliance with this Act and the regulations, a provincial officer or a police officer may stop and inspect the motor vehicle.

Same

(3) An inspection under subsection (2) shall be limited to what is reasonably required to ascertain whether the system or device is operating in compliance with this Act and the regulations.

Same

- (4) In an inspection under subsection (2), the provincial officer or police officer may,
- (a) require the driver of the motor vehicle to submit the motor vehicle to such tests at such places and times as the provincial officer or police officer considers reasonable;
 - (b) require the driver of the motor vehicle to produce any documents, including licenses and permits, related to the operation or ownership of the motor vehicle; and
 - (c) require the driver of the motor vehicle to operate, use or set in motion the vehicle or any part of the vehicle, under the conditions specified by the provincial officer or police officer.

Police assistance

(5) Where a provincial officer considers it necessary or expedient to do so, he or she may call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required for an inspection under subsection (2), and it is the duty of every member of a police force to render the assistance. 1998, c. 35, s. 26.

167. Repealed: 1998, c. 35, s. 27.

Matters confidential

168. (1) Except as to information in respect of the deposit, addition, emission or discharge of a contaminant into the natural environment, every provincial officer shall preserve secrecy in respect of all matters that come to his or her knowledge in the course of any survey, examination, test or inquiry under this Act or the regulations and shall not communicate any such matters to any person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations;
- (a.1) as authorized under the *Regulatory Modernization Act, 2007*;
- (b) to the provincial officer's counsel; or
- (c) with the consent of the person to whom the information relates. R.S.O. 1990, c. E.19, s. 168 (1); 2007, c. 4, s. 30 (2); 2009, c. 19, s. 67 (9).

Testimony in civil suit

(2) Except in a proceeding under this Act or the regulations, no provincial officer shall be required to give testimony, other than testimony in respect of the deposit, addition, emission or discharge of a contaminant into the natural environment, in any civil suit or proceeding with regard to information obtained by him or her in the course of any survey, examination, test or inquiry under this Act or the regulations. R.S.O. 1990, c. E.19, s. 168 (2);

2009, c. 19, s. 67 (9).

PART XV.1 RECORDS OF SITE CONDITION

Definitions, Part XV.1

168.1 In this Part,

“building” has the same meaning as in the *Building Code Act, 1992*; (“bâtiment”)

“construct” has the same meaning as in the *Building Code Act, 1992*; (“construire”)

“owner” includes a person prescribed by the regulations; (“propriétaire”)

“phase one environmental site assessment” means an assessment of property conducted in accordance with the regulations by or under the supervision of a qualified person to determine the likelihood that one or more contaminants have affected any land or water on, in or under the property; (“évaluation environnementale de site de phase I”)

“phase two environmental site assessment” means an assessment of property conducted in accordance with the regulations by or under the supervision of a qualified person to determine the location and concentration of one or more contaminants in the land or water on, in or under the property; (“évaluation environnementale de site de phase II”)

“qualified person” means a person who meets the qualifications prescribed by the regulations; (“personne compétente”)

“Registry” means the Environmental Site Registry; (“Registre”)

“risk assessment” means an assessment of risks prepared in accordance with the regulations by or under the supervision of a qualified person. (“évaluation des risques”) 2001, c. 17, s. 2 (36); 2007, c. 7, Sched. 13, s. 3.

Interpretation, effect on cause of action

168.2 (1) Except as provided in subsections 168.3 (3) and (4) and 168.9 (12), this Part shall not be construed as affecting any cause of action that a person would have in the absence of this Part. 2001, c. 17, s. 2 (36); 2006, c. 19, Sched. K, s. 2 (4); 2007, c. 7, Sched. 13, s. 4 (1).

Interpretation, meeting standards

(2) For purposes of this Part, a property meets the applicable site condition standards prescribed by the regulations for all contaminants prescribed by the regulations or the standards specified in a risk assessment for a contaminant if the concentration of the contaminants in the land and water on, in or under the property does not exceed the standards. 2007, c. 7, Sched. 13, s. 4 (2).

Environmental Site Registry

168.3 (1) The Director shall establish, maintain and operate a registry known in English as the Environmental Site Registry and in French as Registre environnemental des sites. 2001, c. 17, s. 2 (36).

Purposes

(2) The purposes of the Registry are:

1. To allow the filing of records of site condition for the purposes of this Part.
2. To facilitate public access to information contained in records of site condition that

have been filed under this Part and to other information filed in accordance with this Act and the regulations.

3. Such other purposes as are prescribed. 2001, c. 17, s. 2 (36); 2007, c. 7, Sched. 13, s. 5 (1).

Protection from liability

[\(3\)](#) Despite subsection 180 (2), no action or other proceeding shall be commenced against the Crown in right of Ontario, a public servant employed under Part III of the *Public Service of Ontario Act, 2006*, a person or body to whom powers and duties of the Director are delegated under section 168.9 or an employee of a person or body to whom powers and duties of the Director are delegated under section 168.9 arising from any inaccuracy contained in a record of site condition that is filed in the Registry under this Act. 2001, c. 17, s. 2 (36); 2006, c. 35, Sched. C, s. 36 (6).

Same

[\(4\)](#) No action or other proceeding shall be commenced against a municipality or a conservation authority or against an officer, employee or agent of a municipality or conservation authority in relation to the following, if the action or proceeding arises from any inaccuracy contained in a record of site condition that is filed in the Registry under this Act:

1. The issuance of a permit under section 8 or 10 of the *Building Code Act, 1992*.
2. Any act done in the execution or intended execution of any power or duty under the *Planning Act* or any alleged neglect or default in the execution of any such power or duty.
3. Any act done in the execution or intended execution of any power or duty under any other prescribed Act or any prescribed provisions under a prescribed Act or any alleged neglect or default in the execution of any such power or duty. 2007, c. 7, Sched. 13, s. 5 (2).

Prohibition on certain changes of use

[168.3.1 \(1\)](#) Subject to subsection (2), a person shall not,

- (a) change the use of a property from industrial or commercial use to residential or parkland use;
- (b) change the use of a property in a manner prescribed by the regulations; or
- (c) construct a building if the building will be used in connection with a change of use that is prohibited by clause (a) or (b). 2001, c. 17, s. 2 (37).

Exception

[\(2\)](#) Subsection (1) does not apply if,

- (a) a record of site condition has been filed in the Registry in respect of the property under section 168.4; and
- (b) the use specified under paragraph 3 of subsection 168.4 (2) in the record of site condition is the use to which the property is changed under clause (1) (a) or (b). 2001, c. 17, s. 2 (37).

Submission for filing, record of site condition

[168.4 \(1\)](#) An owner of a property may submit for filing in the Registry a record of site condition in respect of the property if all of the following criteria are satisfied:

1. A qualified person has certified in the record of site condition that a phase one environmental site assessment of the property has been conducted.
2. A qualified person has certified in the record of site condition that,
 - i. a phase two environmental site assessment of all or part of the property was conducted with respect to one or more contaminants, or
 - ii. as of the certification date, no phase two environmental site assessment is required by the regulations for any part of the property and, in the opinion of the qualified person, it is not necessary for any other reason to conduct a phase two environmental site assessment for any part of the property.
3. If a phase two environmental site assessment was conducted but for only part of the property, a qualified person has certified in the record of site condition that, as of the certification date,
 - i. no phase two environmental site assessment was required by the regulations for any other part of the property, and
 - ii. in the opinion of the qualified person, it was not necessary for any other reason to conduct a phase two environmental site assessment for any other part of the property.
4. If a phase two environmental site assessment was conducted for all or part of the property, a qualified person has certified in the record of site condition that,
 - i. as of the certification date, the property for which the phase two environmental site assessment was conducted meets,
 - A. the applicable full depth background site condition standards prescribed by the regulations for all contaminants prescribed by the regulations, except for those contaminants specified by the qualified person,
 - B. the applicable full depth generic site condition standards prescribed by the regulations for all contaminants prescribed by the regulations, except for those contaminants specified by the qualified person, or
 - C. the applicable stratified site condition standards prescribed by the regulations for all contaminants prescribed by the regulations, except for those contaminants specified by the qualified person, and
 - ii. for each contaminant excepted by the qualified person from the certification under subparagraph i,
 - A. a risk assessment was prepared for the contaminant with respect to the property for which the phase two environmental site assessment was conducted,
 - B. the Director has accepted the risk assessment under clause 168.5 (1) (a), and
 - C. as of the certification date, the property for which the phase two environmental site assessment was conducted meets the standards specified in the risk assessment for the contaminant.
5. The record of site condition contains everything required by subsection (2) and has

been completed in accordance with the regulations. 2001, c. 17, s. 2 (36); 2007, c. 7, Sched. 13, s. 6 (1).

Contents of record of site condition

(2) The person who submits for filing a record of site condition in respect of a property shall ensure that, in accordance with the regulations, the record of site condition contains the following:

1. A description of the property.
2. The name of the person submitting the record of site condition for filing and the names of any other owners of the property.
3. The type of property use to which the property for which the record of site condition is submitted for filing is to be put.
4. Which standards prescribed by the regulations were applied for the purpose of the record of site condition.
5. A description of any soil removals or other action taken to reduce the concentration of contaminants on, in or under the property.
6. For each contaminant for which sampling and analysis has been performed, the maximum known concentration of the contaminant on, in or under the property as of the certification date.
7. A statement indicating whether a certificate of property use has been issued in respect of the property.
8. A list of all reports relied on by qualified persons in making the certifications referred to in subsection (1).
9. Such other certifications, information and documents as are prescribed by the regulations. 2001, c. 17, s. 2 (36); 2007, c. 7, Sched. 13, s. 6 (2-5).

Submitting a record of site condition

(3) If a record of site condition is submitted for filing under this section in respect of a property, the Director shall,

- (a) give a notice of receipt to the owner who submitted the record of site condition, once the Director is satisfied that everything required by subsection (2) has been submitted for filing; and
- (b) within the time prescribed by the regulations from the date set out in the notice of receipt given under clause (a), give a notice or acknowledgement under subsection (3.1) to the owner who submitted the record of site condition. 2007, c. 7, Sched. 13, s. 6 (6).

Same

(3.1) The Director shall give one of the following to the person to whom the Director has given a notice of receipt under clause (3) (a):

1. Written notice that the record of site condition cannot be filed because it has not been completed in accordance with the regulations.
2. Written notice stating that the Director intends to conduct a review in relation to the record of site condition before the record of site condition can be filed in the Registry.

3. Written acknowledgement, specifying the date, that the record of site condition has been filed in the Registry. 2007, c. 7, Sched. 13, s. 6 (6).

Notice that a record of site condition cannot be filed

[\(3.2\)](#) A notice given under paragraph 1 of subsection (3.1) shall identify the manner in which the record of site condition has not been completed in accordance with the regulations. 2007, c. 7, Sched. 13, s. 6 (6).

Notice after review relating to record of site condition

[\(3.3\)](#) If a notice is given under paragraph 2 of subsection (3.1), after conducting the review, the Director shall,

- (a) give a notice to the owner indicating that a defect prescribed by the regulations has been found in relation to the record of site condition; or
- (b) give a written acknowledgment to the owner, specifying the date, that the record of site condition has been filed in the Registry. 2007, c. 7, Sched. 13, s. 6 (6).

Correction of defect

[\(3.4\)](#) If an owner to whom notice has been given under clause (3.3) (a),

- (a) submits for filing a new record of site condition in respect of the property under subsection (1); or
- (b) submits further information or documents to the Director in relation to the original record of site condition that was submitted under subsection (1),

and the Director is satisfied that, as a result of the submission, there is no defect prescribed by the regulations in relation to the record of site condition, the Director shall give a written acknowledgment to the owner, specifying the date, that the record of site condition has been filed in the Registry. 2007, c. 7, Sched. 13, s. 6 (6).

Date of filing

[\(4\)](#) A record of site condition is deemed to have been filed in the Registry under this section on the date specified in the acknowledgement given by the Director under this section. 2007, c. 7, Sched. 13, s. 6 (7).

Retention of reports

[\(5\)](#) If a qualified person has relied on a report in making a certification referred to in subsection (1) or (2) in a record of site condition that has been filed under this section, the following persons shall retain a copy of the report for the period prescribed by the regulations:

1. The owner of the property who submitted the record of site condition for filing or who filed the record of site condition.
2. The qualified person who made the certification. 2007, c. 7, Sched. 13, s. 6 (8, 9).

Transition

[\(6\)](#) If, pursuant to the Ministry publication entitled “Guideline for Use at Contaminated Sites in Ontario”, originally dated June 1996 and later revised, a record of site condition in respect of a property was submitted to the Ministry before this section came into force, the owner of the property may, despite subsections (1) and (2), file the record of site condition in the Registry if both of the following criteria are satisfied:

1. The Ministry has acknowledged in writing receipt of the record of site condition.
2. The owner of the property files a notice in the Registry certifying that the

requirements prescribed by the regulations have been complied with. 2001, c. 17, s. 2 (36).

Same

- (7) If a record of site condition is filed in the Registry under subsection (6),
- (a) the notice referred to in paragraph 2 of subsection (6) shall be deemed to be part of the record of site condition;
 - (b) the land use specified in the record of site condition shall be deemed to have been specified as the type of property use under paragraph 3 of subsection (2); and
 - (c) the record of site condition shall be deemed to contain,
 - (i) a certification under sub-subparagraph 4 i A of subsection (1), if the record of site condition indicates that a background assessment or restoration approach was used,
 - (ii) a certification under sub-subparagraph 4 i B of subsection (1), if the record of site condition indicates that a generic full depth assessment or restoration approach was used,
 - (iii) a certification under sub-subparagraph 4 i C of subsection (1), if the record of site condition indicates that a generic stratified assessment or restoration approach was used, or
 - (iv) a certification under subparagraph 4 ii of subsection (1), if the record of site condition indicates that a site specific risk assessment approach was used.
- 2001, c. 17, s. 2 (36).

Acknowledgment of filing

(8) If a record of site condition is filed in the Registry under subsection (6), the Director shall promptly give the person who filed the record of site condition a written acknowledgment. 2007, c. 7, Sched. 13, s. 6 (10).

Date of filing

(9) A record of site condition that is filed in the Registry under subsection (6) shall be deemed to have been filed in the Registry on the date specified in the acknowledgment given under subsection (8). 2007, c. 7, Sched. 13, s. 6 (10).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 168.4 is amended by the Statutes of Ontario, 2007, chapter 7, Schedule 13, subsection 6 (11) by adding the following subsection:

Correction of errors

(10) If an owner of property for which a record of site condition has been filed in the Registry under this section requests the Director to correct an error in the record of site condition, the Director shall correct the error in the record of site condition if the error is of a prescribed type and if the correction is made in the circumstances that satisfy the criteria, if any, prescribed by the regulations and does not contravene any prohibition, if any, prescribed by the regulations. 2007, c. 7, Sched. 13, s. 6 (11).

See: 2007, c. 7, Sched. 13, ss. 6 (11), 14 (2).

Director's response to risk assessment

168.5 (1) If an owner of property submits a risk assessment relating to a contaminant

and the property to the Director, the Director shall, within the time prescribed by the regulations,

- (a) give the person notice in writing that the Director accepts the risk assessment; or
- (b) give the person notice in writing that the Director does not accept the risk assessment for reasons specified by the Director in the notice. 2001, c. 17, s. 2 (36).

Validity of decision

[\(2\)](#) A decision of the Director to accept or not accept a risk assessment is not invalid solely on the ground that the decision was not made within the time prescribed by the regulations. 2001, c. 17, s. 2 (36).

Certificate of property use

[168.6 \(1\)](#) If a risk assessment relating to a property has been accepted under clause 168.5 (1) (a), the Director may issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:

1. Take any action that is specified in the certificate and that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
2. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property. 2001, c. 17, s. 2 (36); 2006, c. 19, Sched. K, s. 2 (5, 6); 2007, c. 7, Sched. 13, s. 7.

Restriction

[\(2\)](#) A certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment. 2001, c. 17, s. 2 (36).

Revocation or amendment

[\(3\)](#) The Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection (1),

- (a) alter any terms and conditions in the certificate or impose new terms and conditions; or
- (b) revoke the certificate. 2001, c. 17, s. 2 (36).

Occupants

[\(4\)](#) If a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified building on the property,

- (a) the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
- (b) the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
- (c) the owner of the property shall ensure that every occupant of the property complies with the provision. 2001, c. 17, s. 2 (36).

Notice to prescribed persons

(5) If a certificate of property use is issued, altered or revoked under this section, the Director shall give notice of the certificate, alteration or revocation to the persons prescribed by the regulations. 2001, c. 17, s. 2 (38).

Prohibition on construction or use

(6) Despite any other Act, if a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified building on the property, no permit, licence, approval or other instrument shall be issued to any person, under any provision prescribed by the regulations, that would authorize the person to use the property for the specified use, to construct the specified building or to construct a building that will be used for the specified use. 2001, c. 17, s. 2 (38).

Consequences of filing record of site condition

168.7 (1) If a record of site condition is filed in the Registry in accordance with section 168.4 with respect to a property, no order shall be issued to any of the following persons under section 7, 8, 12, 17, 18, 97, 157 or 157.1 in respect of a contaminant that was discharged into the natural environment before the certification date and was on, in or under the property as of the certification date:

1. The person who filed or who submitted for filing the record of site condition or a subsequent owner of the property.
2. A person who is in occupation of the property or who was in occupation of the property at any time after the record of site condition was filed.
3. A person who has charge, management or control of the property or who had charge, management or control of the property at any time after the record of site condition was filed.
4. A person who meets the requirements prescribed by the regulations and who, before the certification date,
 - i. owned the property,
 - ii. was in occupation of the property, or
 - iii. had charge, management or control of the property. 2001, c. 17, s. 2 (36); 2007, c. 7, Sched. 13, s. 8 (1, 2).

False or misleading information, etc.

(2) Subsection (1) does not apply if the record of site condition contains false or misleading information or false or misleading certifications. 2007, c. 7, Sched. 13, s. 8 (3).

Contaminants that move to other property

(3) Subsection (1) does not apply if, after the certification date, any of the contaminant moved from the property to which the record of site condition relates to another property. 2001, c. 17, s. 2 (36).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed by the Statutes of Ontario, 2007, chapter 7, Schedule 13, subsection 8 (4) and the following substituted:

Contaminants that move to other property

(3) Subject to section 168.7.1, subsection (1) does not apply if, after the certification date,

any of the contaminant moved from the land or water on, in or under the property for which a record of site condition has been filed to another property. 2007, c. 7, Sched. 13, s. 8 (4).

See: 2007, c. 7, Sched. 13, ss. 8 (4), 14 (2).

Different use

(4) If the actual use of the property is different from the use specified under paragraph 3 of subsection 168.4 (2) in the record of site condition, subsection (1) does not apply to a person who causes or permits the change in use and who owns, occupies or has charge, management or control of the property at the time of the change unless,

- (a) the record of site condition did not contain any certification under subparagraph 4 ii of subsection 168.4 (1);
- (b) all of the full depth background site condition standards that are applicable under the regulations to the actual use are the same as or less stringent than the full depth background site condition standards that are applicable to the use specified in the record of site condition, if the record of site condition contained a certification under sub-subparagraph 4 i A of subsection 168.4 (1);
- (c) all of the full depth generic site condition standards that are applicable under the regulations to the actual use are the same as or less stringent than the full depth generic site condition standards that are applicable to the use specified in the record of site condition, if the record of site condition contained a certification under sub-subparagraph 4 i B of subsection 168.4 (1); and
- (d) all of the stratified site condition standards that are applicable under the regulations to the actual use are the same as or less stringent than the stratified site condition standards that are applicable to the use specified in the record of site condition, if the record of site condition contained a certification under sub-subparagraph 4 i C of subsection 168.4 (1). 2007, c. 7, Sched. 13, s. 8 (5).

Contravention of certificate of property use, etc.

(5) Despite subsection (1), an order may be issued under section 157 against a person who contravenes a term or condition of,

- (a) a certificate of property use; or
- (b) an order made under this Act in respect of risk management measures described in a record of site condition filed in the Registry under subsection 168.4 (6). 2001, c. 17, s. 2 (36).

Contravention of soil management or disposal regulations

(6) Despite subsection (1), an order may be issued under section 157 against a person who contravenes a provision of a regulation made under clause 176 (1) (g) or 176 (10) (m). 2001, c. 17, s. 2 (36).

Order if contaminant moves

(6.1) Despite subsection (3), if, after the certification date, any of the contaminant moved from the land or water on, in or under the property for which a record of site condition has been filed to another property as a result of a person contravening,

- (a) a term or condition of a certificate of property use or of an order referred to in clause (5) (b); or
- (b) a provision of a regulation referred to in subsection (6),

subsection (1) does not apply, but solely in respect of that person. 2007, c. 7, Sched. 13, s. 8 (6).

Consent order

(7) Subsection (1) does not apply if the person to whom the order is issued consents in writing to the order. 2001, c. 17, s. 2 (36).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by the Statutes of Ontario, 2007, chapter 7, Schedule 13, section 9 by adding the following section:

Contaminants moving to other property

Application

168.7.1 (1) This section applies to a property for which a record of site condition has been filed in the Registry in accordance with section 168.4 when, after the certification date, a contaminant has moved from the land or water on, in or under the property to another property, and the certifications described in this section, if applicable, are made. 2007, c. 7, Sched. 13, s. 9.

Assessment, all property

(2) This section applies if a qualified person has, in accordance with the regulations, certified in the record of site condition that an assessment of the contaminants that were discharged into the natural environment and that were on, in or under the property for which the record of site condition has been filed, as of the certification date, has been conducted by or under the supervision of a qualified person in accordance with the regulations. 2007, c. 7, Sched. 13, s. 9.

Assessment of ground water

(3) The assessment of contaminants referred to subsection (2) must include an assessment of contaminants in the ground water in or under the property. 2007, c. 7, Sched. 13, s. 9.

Exception, full depth background site condition standards

(4) Subsection 168.7 (3) does not apply to a contaminant that has moved from the land or water on, in or under the property for which a record of site condition has been filed to another property at a concentration that does not exceed the applicable full depth background site condition standard for that contaminant, if the record of site condition contains a certification under sub-subparagraph 4 i A of subsection 168.4 (1). 2007, c. 7, Sched. 13, s. 9.

Exception, sensitive property use

(5) Subsection 168.7 (3) does not apply to a contaminant that has moved from the land or water on, in or under the property for which a record of site condition has been filed to another property at a concentration that does not exceed the applicable site condition standard for that contaminant if the record of site condition contains a certification under sub-subparagraph 4 i B or 4 i C of subsection 168.4 (1) and the type of property use specified under paragraph 3 of subsection 168.4 (2) in the record of site condition is a sensitive property use. 2007, c. 7, Sched. 13, s. 9.

Application, not a sensitive property use

(6) If the record of site condition contains a certification under sub-subparagraph 4 i B or 4

i C of subsection 168.4 (1) and the type of property use specified under paragraph 3 of subsection 168.4 (2) in the record of site condition is not a sensitive property use, this section applies if a qualified person has, in accordance with the regulations, made the following certifications in the record of site condition, in addition to the certification referred to in subsection (2):

1. The phase one environmental site assessment of the property referred to in paragraph 1 of subsection 168.4 (1) included an investigation of the existing and permitted land uses within the vicinity of the property in accordance with the regulations to determine whether a sensitive property use is located or permitted within the vicinity of the property.
2. A certification that, as of the date prescribed by the regulations, there is no sensitive property use located or permitted within the vicinity of the property or a certification that, as of the date prescribed by the regulations, there is a sensitive property use located or permitted within the vicinity of the property. 2007, c. 7, Sched. 13, s. 9.

Exception, not a sensitive property use

(7) If a record of site condition contains a certification under sub-subparagraph 4 i B or 4 i C of subsection 168.4 (1) and the type of property use specified under paragraph 3 of subsection 168.4 (2) in the record of site condition is not a sensitive property use, subsection 168.7 (3) does not apply to a contaminant that has moved from the land or water on, in or under the property for which a record of site condition has been filed to another property at a concentration that,

- (a) does not exceed the applicable site condition standard for that contaminant if the record of site condition contains a certification that, as of the date prescribed by the regulations, there is no sensitive property use located or permitted within the vicinity of the property; or
- (b) does not exceed the applicable site condition standard for that contaminant that would have applied to the property if the type of property use specified under paragraph 3 of subsection 168.4 (2) in the record of site condition were a sensitive property use, if the record of site condition contains a certification that, as of the date prescribed by the regulations, there is a sensitive property use located or permitted within the vicinity of the property. 2007, c. 7, Sched. 13, s. 9.

Prescribed date

(8) A date prescribed by the regulations for the purposes of paragraph 2 of subsection (6) and clauses (7) (a) and (b) shall not be a date that is after the certification date that applies to the record of site condition. 2007, c. 7, Sched. 13, s. 9.

Reference to site condition standard

(9) A reference in this section to an applicable site condition standard for a contaminant means the site condition standard that applied to the contaminant as of the certification date set out in the record of site condition or, in the case of a reference in clause (7) (b), means the site condition standard that would have applied to the contaminant as of the certification date set out in the record of site condition. 2007, c. 7, Sched. 13, s. 9.

Non-application to person who causes or permits discharge

(10) This section does not apply to a person who, before the certification date, caused or

permitted the discharge into the natural environment of the contaminant referred to in subsection (1). 2007, c. 7, Sched. 13, s. 9.

Definition

(11) In this section,

“sensitive property use” means one or more types of property uses prescribed by the regulations for the purposes of this section. 2007, c. 7, Sched. 13, s. 9.

See: 2007, c. 7, Sched. 13, ss. 9, 14 (2).

Notice of order to be filed in Registry

168.7.2 (1) The Director shall file notice of the order in the Registry in accordance with the regulations if an order is issued under section 7, 8, 12, 17, 18, 97, 157 or 157.1 with respect to a property for which a record of site condition has been filed in accordance with section 168.4 and if,

- (a) pursuant to subsection 168.7 (2), (3), (4) or (6.1), subsection 168.7 (1) does not apply; or
- (b) subsection 168.7 (5) or (6) applies. 2007, c. 7, Sched. 13, s. 10.

Notice of compliance with order

(2) If the Director is satisfied that an order referred to in subsection (1) has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations. 2007, c. 7, Sched. 13, s. 10.

Filing of new record of site condition

(3) If the Director is satisfied that an order referred to in subsection (1) has been complied with, but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (2) does not apply until a new record of site condition is filed in accordance with section 168.4. 2007, c. 7, Sched. 13, s. 10.

Emergencies relating to old contaminants

168.8 (1) If a record of site condition is filed in the Registry in accordance with section 168.4 with respect to a property, the Director may issue an order described in subsection (2) to the person who owns the property if the Director has reasonable grounds to believe that, as a result of the presence of a contaminant that was on, in or under the property as of the certification date, there is danger to the health or safety of any person. 2001, c. 17, s. 2 (36); 2007, c. 7, Sched. 13, s. 11.

Scope of order

(2) An order under subsection (1) may only require the owner, within such times as are specified in the order, to comply with such directions specified in the order as are reasonably necessary to ensure that there is no danger to the health or safety of any person. 2001, c. 17, s. 2 (36).

Same

(3) The directions referred to in subsection (2) may include the following:

1. A direction requiring the doing of anything mentioned in section 124.
2. A direction requiring the removal or disposal of the contaminant or anything affected by the contaminant.

3. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing.
4. If the presence or discharge of the contaminant has damaged or endangered or is likely to damage or endanger existing water supplies, a direction to provide temporary or permanent alternate water supplies. 2001, c. 17, s. 2 (36); 2005, c. 12, s. 1 (43).

Information to be included in order

(4) An order under subsection (1) shall briefly describe the reasons for the order and the circumstances on which the reasons are based. 2001, c. 17, s. 2 (36).

Notice of order to be filed in Registry

(5) The Director shall file notice of an order under subsection (1) in the Registry in accordance with the regulations. 2001, c. 17, s. 2 (36).

Notice of compliance with order

(6) If the Director is satisfied that an order under subsection (1) has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations. 2001, c. 17, s. 2 (36).

Filing of new record of site condition

(7) If the Director is satisfied that an order under subsection (1) has been complied with but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (6) does not apply until a new record of site condition is filed in accordance with section 168.4. 2001, c. 17, s. 2 (36).

Delegation agreement

168.9 (1) The Minister may enter into an agreement with an individual, partnership or corporation, delegating to the individual, partnership or corporation any of the Director's powers and duties relating to the establishment, maintenance and operation of the Registry, including the Director's duties under subsection 168.4 (3). 2001, c. 17, s. 2 (36).

Contents of agreement

(2) A delegation agreement shall contain any limitations, conditions and requirements applicable to the delegation and such other provisions as the Minister considers advisable in the public interest, including provisions,

- (a) requiring that the delegate comply with applicable Ministry standards and policies, including standards and policies relating to quality assurance and audits;
- (b) setting the financial terms of the delegation;
- (c) requiring the delegate to obtain and maintain specified kinds and amounts of insurance;
- (d) providing that the Minister may appoint persons to the board of directors of the delegate, if the delegate is a corporation without share capital;
- (e) authorizing the delegate to carry on other activities unrelated to the delegated powers and duties. 2001, c. 17, s. 2 (36).

Regulation

(3) A delegation under a delegation agreement is not effective unless the Minister makes a regulation,

- (a) prescribing the powers and duties that are to be delegated by the agreement; and
- (b) specifying the individual, partnership or corporation to which the powers and duties are to be delegated. 2001, c. 17, s. 2 (36).

Revocation of delegation

(4) The Minister may by regulation revoke a delegation if, in the opinion of the Minister,

- (a) the delegate has contravened or failed to comply with this Act or the regulations;
- (b) the delegate has contravened or failed to comply with the delegation agreement; or
- (c) it is in the public interest to do so. 2001, c. 17, s. 2 (36).

Effect of regulation

(5) The delegation is revoked by a regulation made under subsection (4) on the day specified in the regulation or, if no day is specified in the regulation, on the day the regulation comes into force. 2001, c. 17, s. 2 (36).

Notice

(6) The Minister may give the delegate such notice of the intention to make a regulation under subsection (4) as the Minister considers reasonable in the circumstances. 2001, c. 17, s. 2 (36).

Other remedies not affected

(7) The power to revoke a delegation is in addition to and does not bar or affect the Minister's right to exercise any other remedy under the delegation agreement or at law. 2001, c. 17, s. 2 (36).

Obligations of delegate

(8) The delegate shall exercise and perform the powers and duties delegated to the delegate in accordance with the law and, in particular, in accordance with this Act, the regulation prescribing the delegated powers and duties and the delegation agreement. 2001, c. 17, s. 2 (36).

Minister may appoint directors

(9) If a delegation agreement with a corporation without share capital so provides, the Minister may appoint one or more persons to the board of directors of the delegate, as specified in the agreement, for such terms of office as the Minister considers appropriate. 2001, c. 17, s. 2 (36).

Remuneration, expenses of Ministerial appointees

(10) The remuneration and expenses of the directors appointed by the Minister shall be the responsibility of the delegate. 2001, c. 17, s. 2 (36).

Delegate not a Crown agency

(11) A delegate is not an agent of Her Majesty for any purpose, despite the *Crown Agency Act*, and shall not hold itself out as such. 2001, c. 17, s. 2 (36).

Crown not liable for delegate's acts

(12) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,

- (a) for any act done in the execution or intended execution of a power or duty delegated under this section or for an alleged neglect or default in the execution

of a power or duty delegated under this section; or

- (b) for any tort committed by a delegate or an employee or agent of a delegate in relation to a power or duty delegated under this section. 2001, c. 17, s. 2 (36); 2006, c. 35, Sched. C, s. 36 (7).

Annual report

[\(13\)](#) A delegate shall report annually to the Minister on its activities over the previous year with respect to the delegated powers and duties. 2001, c. 17, s. 2 (36).

Additional reports

[\(14\)](#) A delegate shall provide additional reports to the Minister as may be required by the delegation agreement or requested by the Minister. 2001, c. 17, s. 2 (36).

Regulations

[\(15\)](#) The Minister may make regulations,

- (a) prescribing the powers and duties of the Director that are to be delegated under a delegation agreement;
- (b) specifying the individual, partnership or corporation to whom such powers and duties are to be delegated;
- (c) respecting any matter that the Minister considers advisable to carry out effectively the intent and purpose of this section. 2001, c. 17, s. 2 (36).

General or particular

[\(16\)](#) A regulation made under subsection (15) may be general or particular in its application. 2001, c. 17, s. 2 (36).

Definition

[\(17\)](#) In this section,

“delegation agreement” means an agreement under subsection (1). 2001, c. 17, s. 2 (36).

PART XV.2

SPECIAL PROVISIONS APPLICABLE TO MUNICIPALITIES, SECURED CREDITORS, RECEIVERS, TRUSTEES IN BANKRUPTCY, FIDUCIARIES AND PROPERTY INVESTIGATORS

INTERPRETATION

Definitions, Part XV.2

[168.10](#) In this Part,

“contaminant” means,

- (a) a contaminant as defined in section 1, or
- (b) waste as defined in Part V; (“contaminant”)

“fiduciary property” means property held or administered by a fiduciary in the capacity of fiduciary, or property in respect of which a fiduciary has powers or duties in the capacity of fiduciary; (“bien fiduciaire”)

“non-municipal property” means, with respect to a municipality, property that is not owned, leased or occupied by the municipality. (“bien non municipal”) 2001, c. 17, s. 2 (39).

Interpretation, effect on cause of action

168.11 This Part shall not be construed as affecting any cause of action that a person would have in the absence of this Part. 2001, c. 17, s. 2 (39).

MUNICIPALITIES**Actions taken by municipalities**

168.12 (1) A municipality or a municipal representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) a person who is or was in occupation of a source of contaminant for the purpose of subsection 7 (1) or 8 (1);
- (b) a person who has or had the charge, management or control of a source of contaminant for the purpose of subsection 7 (1) or 8 (1);
- (c) a person responsible for the purpose of section 12;
- (d) a person who has or had management or control of an undertaking or property for the purpose of subsection 18 (1);
- (e) a person who has or had charge and control of land, a building or waste for the purpose of section 43;
- (f) an occupant or previous occupant of land or a building for the purpose of section 43;
- (g) a person having control of a pollutant for the purpose of subsection 97 (1);
- (h) a person having the charge, management or control of any real property or personal property for the purpose of subsection 97 (1); or
- (i) a person who has management or control of an undertaking or property for the purpose of subsection 157.1 (1). 2001, c. 17, s. 2 (39); 2005, c. 12, s. 1 (44).

Actions

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to non-municipal property.
2. Any action taken for the purpose of preserving or protecting non-municipal property, including action to,
 - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
 - ii. secure the property by means of locks, gates, fences, security guards or other means, or
 - iii. ensure that the property is insured under a contract of insurance.
3. Any action taken on non-municipal property for the purpose of responding to,
 - i. any danger to the health or safety of any person that results from the presence or discharge of a contaminant on, in or under the property,
 - ii. any impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it that results from the presence or discharge of a contaminant on, in or under the property, or

- iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of a contaminant on, in or under the property.
4. Any action taken with respect to non-municipal property to exercise a right under any Act to collect rent or levy by distress in relation to an unpaid amount.
5. Any action taken on non-municipal property under or for the purpose of Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*.
6. Any action taken on non-municipal property under or for the purpose of the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1997* or an Act prescribed by the regulations.
7. Any other action prescribed by the regulations. 2001, c. 17, s. 2 (39); 2002, c. 17, Sched. C, s. 11 (1); 2006, c. 32, Sched. C, s. 19 (7).

Ownership by vesting

168.13 (1) If a municipality becomes the owner of property by virtue of the registration of a notice of vesting under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, the Minister, the Director or a provincial officer shall not, in respect of the period described in subsection (4), issue any order under this Act to the municipality or a municipal representative with respect to the property unless the order arises from,

- (a) the gross negligence or wilful misconduct of the municipality or municipal representative; or
- (b) circumstances prescribed by the regulations. 2006, c. 32, Sched. C, s. 19 (8).

Exception

(2) Subsection (1) does not apply to an order under paragraph 4, 5 or 6 of subsection 97 (1). 2001, c. 17, s. 2 (39).

Consent order

(3) Subsection (1) does not apply to an order issued with the written consent of the municipality or municipal representative. 2001, c. 17, s. 2 (39).

Time period

(4) Subsection (1) only applies to the municipality or municipal representative in respect of the period that begins on the day the municipality became the owner of the property by virtue of the registration of the notice of vesting and ends on the earlier of the following days:

1. The fifth anniversary of the day the municipality became the owner of the property by virtue of the registration of the notice of vesting.
2. The day the municipality ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 2 (7).

Extension of period

(5) The Director may extend the period referred to in subsection (4), before or after it expires, on such terms and conditions as he or she considers appropriate, but the period may not be extended beyond the day the municipality ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 2 (7).

Exceptional circumstances, municipalities

168.14 (1) Despite section 168.13, the Director may issue an order described in subsection (3) to a municipality if the municipality has become the owner of property by virtue of the registration of a notice of vesting under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006* and the Director has reasonable grounds to believe that, as a result of the presence or discharge of a contaminant on, in or under the property, any of the following circumstances exist:

1. There is danger to the health or safety of any person.
2. There is impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it.
3. There is injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2001, c. 17, s. 2 (39); 2002, c. 17, Sched. C, s. 11 (3); 2006, c. 32, Sched. C, s. 19 (9).

Restriction if record of site condition

(2) If a record of site condition has been filed in the Environmental Site Registry under section 168.4 with respect to the property, no order shall be issued under subsection (1) unless the Director has reasonable grounds to believe that, as a result of the presence of a contaminant that was on, in or under the property as of the certification date, there is danger to the health or safety of any person. 2001, c. 17, s. 2 (39).

Scope of order

(3) An order under subsection (1) may only require the municipality, within such times as are specified in the order, to comply with such directions specified in the order as are reasonably necessary to ensure that,

- (a) none of the circumstances listed in subsection (1) exist, if no record of site condition has been filed in the Environmental Site Registry under section 168.4 with respect to the property; or
- (b) there is no danger to the health or safety of any person, if a record of site condition has been filed in the Environmental Site Registry under section 168.4 with respect to the property. 2001, c. 17, s. 2 (39).

Same

(4) The directions referred to in subsection (3) may include the following:

1. A direction requiring the doing of anything mentioned in section 124.
2. A direction requiring the removal or disposal of the contaminant or anything affected by the contaminant.
3. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing.
4. If the presence or discharge of the contaminant has damaged or endangered or is likely to damage or endanger existing water supplies, a direction to provide temporary or permanent alternate water supplies. 2001, c. 17, s. 2 (39); 2005, c. 12, s. 1 (45).

Information to be included in order

(5) An order under subsection (1) shall briefly describe the reasons for the order and the circumstances on which the reasons are based, including the circumstances listed in subsection (1) that exist. 2001, c. 17, s. 2 (39).

When notice of order filed in Registry

[168.14](#) (6) The Director shall file notice of an order under subsection (1) in the Environmental Site Registry in accordance with the regulations if a record of site condition has been filed in the Registry under section 168.4 with respect to the property. 2001, c. 17, s. 2 (39).

Notice of compliance with order

[168.15](#) (7) If notice of an order has been filed in the Registry under subsection (6) and the Director is satisfied that the order has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations. 2001, c. 17, s. 2 (39).

Filing of new record of site condition

[168.16](#) (8) If notice of an order has been filed in the Registry under subsection (6) and the Director is satisfied that the order has been complied with but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (7) does not apply until a new record of site condition is filed in accordance with section 168.4. 2001, c. 17, s. 2 (39).

Notice of prescribed circumstances, municipalities

[168.15](#) (1) If, in the course of or as a result of taking any action described in subsection 168.12 (2), a municipality or municipal representative becomes aware of circumstances prescribed by the regulations, the municipality shall give notice to a provincial officer in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39).

Same

[168.16](#) (2) If a municipality became the owner of property by virtue of the registration of a notice of vesting under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006* and, during the period described in subsection 168.13 (4), the municipality or a municipal representative becomes aware of circumstances prescribed by the regulations, the municipality shall give notice to a provincial officer in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39); 2002, c. 17, Sched. C, s. 11 (4); 2006, c. 32, Sched. C, s. 19 (10).

Reports of investigations of contaminants, municipalities

[168.16](#) On the written request of the Director, a municipality shall, within the time specified in the request, provide the Director with a copy of any report that is in the possession or control of the municipality and that was prepared in the course of or as a result of an investigation to determine whether a contaminant is present or is being discharged on, in or under property. 2001, c. 17, s. 2 (39).

SECURED CREDITORS, RECEIVERS AND TRUSTEES IN BANKRUPTCY**Actions taken by secured creditors**

[168.17](#) (1) A secured creditor or a secured creditor representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) a person who is or was in occupation of a source of contaminant for the purpose of subsection 7 (1) or 8 (1);
- (b) a person who has or had the charge, management or control of a source of contaminant for the purpose of subsection 7 (1) or 8 (1);
- (c) a person responsible for the purpose of section 12;
- (d) a person who has or had management or control of an undertaking or property for

the purpose of subsection 18 (1);

- (e) a person who has or had charge and control of land, a building or waste for the purpose of section 43;
- (f) an occupant or previous occupant of land or a building for the purpose of section 43;
- (g) a person having control of a pollutant for the purpose of subsection 97 (1);
- (h) a person having the charge, management or control of any real property or personal property for the purpose of subsection 97 (1); or
- (i) a person who has management or control of an undertaking or property for the purpose of subsection 157.1 (1). 2001, c. 17, s. 2 (39); 2005, c. 12, s. 1 (46).

Actions

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to the secured property.
2. Any action taken for the purpose of preserving or protecting the secured property, including action to,
 - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
 - ii. secure the property by means of locks, gates, fences, security guards or other means,
 - iii. ensure that the property is insured under a contract of insurance, or
 - iv. pay taxes due or collect rents owing with respect to the property.
3. Any action taken on the secured property for the purpose of responding to,
 - i. any danger to the health or safety of any person that results from the presence or discharge of a contaminant on, in or under the property,
 - ii. any impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it that results from the presence or discharge of a contaminant on, in or under the property, or
 - iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of a contaminant on, in or under the property.
4. Any other action prescribed by the regulations. 2001, c. 17, s. 2 (39).

Secured creditor becoming owner by foreclosure

168.18 (1) If a secured creditor becomes the owner of the secured property by virtue of a foreclosure, the Minister, the Director or a provincial officer shall not, in respect of the period described in subsection (3), issue any order under any provision of this Act to the secured creditor or a secured creditor representative with respect to the property unless the order arises from,

- (a) the gross negligence or wilful misconduct of the secured creditor or secured creditor representative; or
- (b) circumstances prescribed by the regulations. 2001, c. 17, s. 2 (39).

Consent order

(2) Subsection (1) does not apply to an order issued with the written consent of the secured creditor or secured creditor representative. 2001, c. 17, s. 2 (39).

Time period

(3) Subsection (1) only applies to the secured creditor or secured creditor representative in respect of the period that begins on the day the secured creditor became the owner of the property by virtue of a foreclosure and ends on the earlier of the following days:

1. The fifth anniversary of the day the secured creditor became the owner of the property by virtue of a foreclosure.
2. The day the secured creditor ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 2 (8).

Extension of period

(4) The Director may extend the period referred to in subsection (3), before or after it expires, on such terms and conditions as he or she considers appropriate, but the period may not be extended beyond the day the secured creditor ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 2 (8).

Receivers and trustees in bankruptcy

168.19 (1) The Minister, the Director or a provincial officer shall not issue any order under any provision of this Act to a receiver, receiver representative, trustee in bankruptcy or trustee in bankruptcy representative with respect to the property held or administered by the receiver or trustee in bankruptcy unless the order arises from,

- (a) the gross negligence or wilful misconduct of the receiver, receiver representative, trustee in bankruptcy or trustee in bankruptcy representative; or
- (b) circumstances prescribed by the regulations. 2001, c. 17, s. 2 (39).

Consent order

(2) Subsection (1) does not apply to an order issued with the written consent of the receiver, receiver representative, trustee in bankruptcy or trustee in bankruptcy representative. 2001, c. 17, s. 2 (39).

**Exceptional circumstances, secured creditors, receivers and trustees in bankruptcy
Secured creditors**

168.20 (1) Despite section 168.18, the Director may issue an order described in subsection (4) to a secured creditor who has become the owner of the secured property by virtue of a foreclosure if the Director has reasonable grounds to believe that, as a result of the presence or discharge of a contaminant on, in or under the property, any of the following circumstances exist:

1. There is danger to the health or safety of any person.
2. There is impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it.
3. There is injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2001, c. 17, s. 2 (39).

Receivers and trustees in bankruptcy

(2) Despite section 168.19, the Director may issue an order described in subsection (4)

to a receiver or trustee in bankruptcy if the Director has reasonable grounds to believe that, as a result of the presence or discharge of a contaminant on, in or under the property held or administered by the receiver or trustee in bankruptcy, any of the circumstances listed in subsection (1) exist. 2001, c. 17, s. 2 (39).

Restriction if record of site condition

(3) If a record of site condition has been filed in the Environmental Site Registry under section 168.4 with respect to the property, no order shall be issued under subsection (1) or (2) unless the Director has reasonable grounds to believe that, as a result of the presence of a contaminant that was on, in or under the property as of the certification date, there is danger to the health or safety of any person. 2001, c. 17, s. 2 (39).

Scope of order

(4) An order under subsection (1) or (2) may only require the secured creditor, receiver or trustee in bankruptcy, within such times as are specified in the order, to comply with such directions specified in the order as are reasonably necessary to ensure that,

- (a) none of the circumstances listed in subsection (1) exist, if no record of site condition has been filed in the Environmental Site Registry under section 168.4 with respect to the property; or
- (b) there is no danger to the health or safety of any person, if a record of site condition has been filed in the Environmental Site Registry under section 168.4 with respect to the property. 2001, c. 17, s. 2 (39).

Same

(5) The directions referred to in subsection (4) may include the following:

- 1. A direction requiring the doing of anything mentioned in section 124.
- 2. A direction requiring the removal or disposal of the contaminant or anything affected by the contaminant.
- 3. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing.
- 4. If the presence or discharge of the contaminant has damaged or endangered or is likely to damage or endanger existing water supplies, a direction to provide temporary or permanent alternate water supplies. 2001, c. 17, s. 2 (39); 2005, c. 12, s. 1 (47).

Information to be included in order

(6) An order under subsection (1) or (2) shall briefly describe the reasons for the order and the circumstances on which the reasons are based, including the circumstances listed in subsection (1) that exist. 2001, c. 17, s. 2 (39).

Exception

(7) A receiver or trustee in bankruptcy is not required to comply with an order under subsection (2) if the order did not arise from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy, or of a receiver representative or trustee in bankruptcy representative, and,

- (a) not later than 10 days after being served with the order, or within such longer period as may be specified by the Director in the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property to which the order relates; or

- (b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 2 (39).

Notice under subs. (7)

[\(8\)](#) Notice under clause (7) (a) or (b) must be given in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39).

When notice of order filed in Registry

[\(9\)](#) The Director shall file notice of an order under subsection (1) or (2) in the Environmental Site Registry in accordance with the regulations if a record of site condition has been filed in the Registry under section 168.4 with respect to the property. 2001, c. 17, s. 2 (39).

Notice of compliance with order

[\(10\)](#) If notice of an order has been filed in the Registry under subsection (9) and the Director is satisfied that the order has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations. 2001, c. 17, s. 2 (39).

Filing of new record of site condition

[\(11\)](#) If notice of an order has been filed in the Registry under subsection (9) and the Director is satisfied that the order has been complied with but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (10) does not apply until a new record of site condition is filed in accordance with section 168.4. 2001, c. 17, s. 2 (39).

Notice of prescribed circumstances, secured creditors, receivers and trustees in bankruptcy

Secured creditors

[168.21 \(1\)](#) If, in the course of or as a result of taking any action described in subsection 168.17 (2), a secured creditor or secured creditor representative becomes aware of circumstances prescribed by the regulations, the secured creditor shall give notice to a provincial officer in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39).

Same

[\(2\)](#) If a secured creditor became the owner of the secured property by virtue of a foreclosure and, during the period described in subsection 168.18 (3), the secured creditor or a secured creditor representative becomes aware of circumstances prescribed by the regulations, the secured creditor shall give notice to a provincial officer in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39).

Receivers and trustees in bankruptcy

[\(3\)](#) If a receiver, trustee in bankruptcy, receiver representative or trustee in bankruptcy representative becomes aware, during the period that the receiver or trustee in bankruptcy holds or administers property, of circumstances prescribed by the regulations, the receiver or trustee in bankruptcy shall give notice to a provincial officer in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39).

Reports of investigations of contaminants, secured creditors, etc.

[168.22](#) On the written request of the Director, a secured creditor, receiver or trustee in bankruptcy shall, within the time specified in the request, provide the Director with a copy of any report that is in the possession or control of the secured creditor, receiver or trustee in

bankruptcy and that was prepared in the course of or as a result of an investigation to determine whether a contaminant is present or is being discharged on, in or under property. 2001, c. 17, s. 2 (39).

FIDUCIARIES

Obligations of fiduciaries

168.23 If the Minister, the Director or a provincial officer issues an order under any provision of this Act to a fiduciary or fiduciary representative with respect to fiduciary property, the obligation of the fiduciary or fiduciary representative to incur costs to comply with the order is limited to the value of the assets they hold or administer on the date they are served with the order, less their reasonable costs of holding or administering the assets, unless the order arose from the gross negligence or wilful misconduct of the fiduciary or fiduciary representative. 2001, c. 17, s. 2 (39).

Notice of prescribed circumstances, fiduciaries

168.24 If, in the course of or as a result of exercising or performing the fiduciary's powers or duties with respect to fiduciary property, a fiduciary or fiduciary representative becomes aware of circumstances prescribed by the regulations, the fiduciary shall give notice to a provincial officer in the manner prescribed by the regulations. 2001, c. 17, s. 2 (39).

Reports of investigations of contaminants, fiduciaries

168.25 On the written request of the Director, a fiduciary shall, within the time specified in the request, provide the Director with a copy of any report that is in the possession or control of the fiduciary and that was prepared in the course of or as a result of an investigation to determine whether a contaminant is present or is being discharged on, in or under property. 2001, c. 17, s. 2 (39).

INVESTIGATIONS OF PROPERTY AND ACTIONS TO REDUCE CONCENTRATION OF CONTAMINANTS

Investigations of property, etc.

168.26 A person who conducts, completes or confirms an investigation in relation to property or a person who takes any action to reduce the concentration of contaminants on, in or under a property is not, for that reason alone,

- (a) a person who is or was in occupation of a source of contaminant for the purpose of subsection 7 (1) or 8 (1);
- (b) a person who has or had the charge, management or control of a source of contaminant for the purpose of subsection 7 (1) or 8 (1);
- (c) a person responsible for the purpose of section 12;
- (d) a person who has or had management or control of an undertaking or property for the purpose of subsection 18 (1);
- (e) a person who has or had charge and control of land, a building or waste for the purpose of section 43;
- (f) an occupant or previous occupant of land or a building for the purpose of section 43;
- (g) a person having control of a pollutant for the purpose of subsection 97 (1);
- (h) a person having the charge, management or control of any real property or

personal property for the purpose of subsection 97 (1); or

- (i) a person who has management or control of an undertaking or property for the purpose of subsection 157.1 (1). 2001, c. 17, s. 2 (39); 2005; c. 12, s. 1 (48); 2007, c. 7, Sched. 13, s. 12 (2).

PART XVI ENVIRONMENTAL COUNCIL

Meaning of “Council”, Part XVI

169. In this Part,

“Council” means the Environmental Council. R.S.O. 1990, c. E.19, s. 169.

Environmental Council established

170. (1) A council to be known in English as the Environmental Council and in French as Conseil de l’environnement may be established and shall consist of not fewer than seven and not more than eleven persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years.

Chair and vice-chair

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chair and another of the members as vice-chair.

Members

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to the natural environment.

Vacancies

(4) Vacancies in the membership of the Council may be filled by the Lieutenant Governor in Council.

Remuneration

(5) The members of the Council shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. R.S.O. 1990, c. E.19, s. 170.

Duties of Council

171. The Council, through its chair, shall,

- (a) advise the Minister as to the results of current research related to,
 - (i) pollution, and
 - (ii) the natural environment; and
 - (b) consider any matter affecting the quality of the environment which the Council or the Minister deems advisable and advise the Minister thereon through its chair.
- R.S.O. 1990, c. E.19, s. 171.

PART XVII MISCELLANEOUS

Where contaminant causes damage to crops or livestock

172. (1) Where a person complains that a contaminant is causing or has caused injury or damage to livestock or to crops, trees or other vegetation which may result in economic loss to such person, the person may, within fourteen days after the injury or damage becomes apparent, request the Minister to conduct an investigation.

Request for investigation

(2) Upon receipt of a request, the Minister may cause an investigation to be made and a report prepared of the findings of the investigation.

Report of investigation

(3) A copy of the report shall be given to the claimant and to the person responsible for the source of contaminant alleged to be the cause of the injury or damage.

Right of person responsible to view damage, etc.

(4) The claimant shall permit the person responsible for such source of contaminant or the person's agent to view the injury or damage and to remove samples and conduct tests and examinations as may be reasonably necessary to establish the cause of the injury or damage.

Board of negotiation

(5) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chair.

Quorum

(6) Any two members of the board of negotiation constitutes a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Place of sitting

(7) The board of negotiation may sit at any place in Ontario.

Notice of amount of claim

(8) If a claimant who has requested an investigation under subsection (1) desires to have his or her claim for injury or damage negotiated by the board of negotiation, the claimant shall notify the Minister and the person responsible for the source of contaminant alleged to be the cause of the injury or damage of the amount of the claimant's claim within a reasonable time after the amount can be determined.

Notice of negotiation

(9) If the claimant and the person responsible are not able to settle the claim within thirty days after notice of the claim is given to the Minister under subsection (8), the claimant or the person responsible may serve notice of negotiation upon the other of them and upon the board of negotiation stating that he or she requires a settlement of the claim to be negotiated by the board of negotiation.

Negotiation procedures

(10) Upon receipt of a notice of negotiation, the board of negotiation shall assess the injury or damage in respect of which the claim is made and, upon reasonable notice to the claimant and to the person responsible, shall meet with them and, without prejudice to any subsequent procedure, proceed in a summary and informal manner to negotiate a settlement of the claim. R.S.O. 1990, c. E.19, s. 172.

Agreement by municipality

173. A municipality may enter into an agreement with the Minister under clause 4 (1) (j) and a municipality that enters into such an agreement has all the powers necessary to carry out the agreement. 1998, c. 35, s. 28.

Unjust dismissal, compliance with Act, etc.

174. (1) In this section,

“Board” means the Ontario Labour Relations Board. R.S.O. 1990, c. E.19, s. 174 (1).

Unjust dismissal

(2) No employer shall,

- (a) dismiss an employee;
- (b) discipline an employee;
- (c) penalize an employee; or
- (d) coerce or intimidate or attempt to coerce or intimidate an employee,

because the employee has complied or may comply with,

- (e) the *Environmental Assessment Act*;
- (f) the *Environmental Protection Act*;
- (g) the *Fisheries Act* (Canada);
- (g.1) the *Nutrient Management Act, 2002*;
- (h) the *Ontario Water Resources Act*;
- (i) the *Pesticides Act*;
- (j) the *Safe Drinking Water Act, 2002*; or
- (k) the *Toxics Reduction Act, 2009*,

or a regulation under one of those Acts or an order, term or condition, environmental compliance approval, certificate of property use, renewable energy approval, licence, permit or direction under one of those Acts or because the employee has sought or may seek the enforcement of one of those Acts or a regulation under one of those Acts or has given or may give information to the Ministry or a provincial officer or has been or may be called upon to testify in a proceeding related to one of those Acts or a regulation under one of those Acts. R.S.O. 1990, c. E.19, s. 174 (2); 2001, c. 17, s. 2 (40); 2002, c. 4, s. 62 (5); 2009, c. 12, Sched. G, s. 17; 2009, c. 19, s. 67 (10); 2010, c. 16, Sched. 7, s. 2 (66).

Complaint

(3) A person complaining of a contravention of subsection (2) may file the complaint in writing with the Board. R.S.O. 1990, c. E.19, s. 174 (3).

Where complaint referred to O.L.R.B.

(4) Where a complaint is filed in writing with the Board,

- (a) the Board may authorize a labour relations officer to inquire into the complaint; or
- (b) the Board may inquire into the complaint. R.S.O. 1990, c. E.19, s. 174 (4).

Labour relations officer

(5) A labour relations officer who is authorized to inquire into the complaint shall make an inquiry forthwith and shall endeavour to effect a settlement of the matter complained of and shall report the results of the inquiry and endeavours to the Board. R.S.O. 1990, c. E.19, s. 174 (5).

Where settlement not reached

(6) Where the labour relations officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint. R.S.O. 1990, c. E.19, s. 174 (6).

Inquiry by O.L.R.B.

(7) Where the Board inquires into the complaint and is satisfied that an employer has

contravened subsection (2), the Board shall determine what, if anything, the employer shall do or refrain from doing with respect thereto. R.S.O. 1990, c. E.19, s. 174 (7).

Determination

(8) A determination under subsection (7) may include, but is not limited to, one or more of,

- (a) an order directing the employer to cease doing the act or acts complained of;
- (b) an order directing the employer to rectify the act or acts complained of; or
- (c) an order directing the employer to reinstate in employment the complainant, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer. R.S.O. 1990, c. E.19, s. 174 (8).

Application

(9) A determination by the Board under subsection (7) applies despite a provision of an agreement. R.S.O. 1990, c. E.19, s. 174 (9).

Burden of proof

(10) On an inquiry under this section, the burden of proof that an employer did not contravene subsection (2) lies upon the employer. R.S.O. 1990, c. E.19, s. 174 (10).

Failure to comply

(11) Where there is a failure to comply with a term of the determination made under subsection (7), the complainant, after the expiration of fourteen days from the date of the release of the determination by the Board or from the date provided in the determination for compliance, whichever is later, may notify the Board in writing of the failure. R.S.O. 1990, c. E.19, s. 174 (11).

Filing of determination

(12) Where the Board receives notice in accordance with subsection (11), the Board shall file in the office of the local registrar of the Superior Court of Justice a copy of the determination, exclusive of the reasons therefor, if any, and the determination shall be entered in the same way as a judgment or order of the court and is enforceable as such. R.S.O. 1990, c. E.19, s. 174 (12); 2001, c. 9, Sched. G, s. 5 (21).

Compliance with settlement

(13) Where the matter complained of has been settled, whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed, the settlement is binding and shall be complied with according to its terms, and a complaint that a settlement has not been complied with shall be deemed to be a complaint under subsection (3). R.S.O. 1990, c. E.19, s. 174 (13).

Application of *Labour Relations Act, 1995*

(14) The *Labour Relations Act, 1995* and the regulations under that Act apply with necessary modifications in respect of a proceeding under subsections (2) to (13). R.S.O. 1990, c. E.19, s. 174 (14); 2006, c. 19, Sched. K, s. 2 (9).

Act performed on behalf of employer

(15) For the purposes of subsections (2) to (14), an act mentioned in subsection (2) that is performed on behalf of an employer shall be deemed to be the act of the employer. R.S.O. 1990, c. E.19, s. 174 (15).

Evidence of documents

175. (1) In this section,

“official document” means,

- (a) an approval, consent, licence, notice, permit, order, return, certificate of property use or other certificate, environmental compliance approval or renewable energy approval under this Act or the regulations or a confirmation of registration under Part II.2,
- (b) a certificate as to service of a document mentioned in clause (a),
- (c) a certificate or report as to the analysis, description, ingredients, quality, quantity or temperature of any solid, liquid or gas or any combination of any of them,
- (d) a certificate or report as to the analysis, description, quality or quantity of any odour, heat, sound, vibration, radiation or any combination of any of them,
- (e) a certificate or report as to the custody of any solid, liquid or gas or any combination of any of them,
- (f) a certificate as to the custody of any book, record or report or as to the custody of any other document, or
- (g) a certificate as to whether or not any document or notification was received or issued by the Minister or the Ministry under this Act or the regulations. R.S.O. 1990, c. E.19, s. 175 (1); 2001, c. 17, s. 2 (41); 2009, c. 12, Sched. G, s. 18; 2010, c. 16, Sched. 7, s. 2 (67).

Official documents as evidence

(2) An official document, other than an official document mentioned in clause (1) (c) or (d), that purports to be signed by the Minister, the Director or an employee in the Ministry shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. R.S.O. 1990, c. E.19, s. 175 (2).

Idem

(3) An official document mentioned in clause (1) (c), (d) or (e) that purports to be signed by an analyst shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. R.S.O. 1990, c. E.19, s. 175 (3).

Regulations, general

175.1 (1) The Lieutenant Governor in Council may make regulations,

- (a) exempting any person, licence holder, insurer, industry, contaminant, source of contaminant, motor vehicle, motor, waste, waste disposal site, waste management system, activity, area, location, matter, substance, sewage system, product, material, beverage, packaging, container, discharge, spill, pollutant or thing from any provision of this Act and the regulations and prescribing conditions for the exemptions from this Act and the regulations;
- (b) prohibiting, regulating or controlling, (including prescribing conditions for the prohibition, regulation or control) the making, use, sale, display, advertising, transfer, transportation, operation, maintenance, storage, recycling, disposal, or

discharge, or manner thereof, of any contaminant, source of contaminant, motor vehicle, motor, waste, waste disposal site, waste management system, activity, area, location, matter, substance, sewage system, product, material, beverage, packaging, container, discharge, spill, pollutant or thing;

- (c) governing and requiring the payment of fees to the Crown or to any other person or body specified by the regulations, including prescribing the amounts or the method of calculating the amounts of the fees, and governing the procedure for the payment,
 - (i) in respect of a certificate of approval, provisional certificate of approval, permit, licence or renewal of licence, examination, inspection or certification,
 - (ii) in respect of any registration or record required by this Act or the regulations,
 - (iii) in respect of an activity pursuant to a provision of a regulation that exempts a person from the requirement to obtain a certificate of approval, provisional certificate of approval or permit, or
 - (iv) in respect of the supply of information, services, or copies of documents, maps, plans, recordings or drawings;
- (d) providing for the retention by a person or body specified by the regulations of all or part of the fees paid, under this Act, to the person or body;
- (e) providing for refunds of fees paid under this Act to the Crown or to a person or body specified by the regulations;
- (f) providing for the issue, review, suspension and revocation of environmental compliance approvals and prescribing conditions for the issuing, reviewing, suspending and revoking;
 - (f.1) subject to subsection (3), governing applications for the issue, review and revocation of environmental compliance approvals;
 - (f.2) providing for the issue, renewal, suspension and revocation of certificates of property use, renewable energy approvals, permits and licences, and prescribing conditions for the issuing, renewing, suspending and revoking;
 - (f.3) governing applications for the issue, renewal and revocation of certificates of property use, renewable energy approvals, permits and licences;
 - (f.4) requiring persons with qualifications specified in the regulations to provide certifications as part of applications mentioned in clauses (f.1) and (f.3);
 - (f.5) governing certifications mentioned in clause (f.4);
 - (f.6) governing the inclusion of terms and conditions in environmental compliance approvals, certificates of property use, renewable energy approvals, permits and licences;
- (g) defining the desirable quality criteria of the natural environment;
- (h) prescribing documents or data required to be created, stored and submitted by any person and the methods of creating, storing and submitting the documents and data;

- (h.1) prescribing the location at which documents or data must be created or stored;
- (h.2) providing for the inspection and examination of documents and data;
- (h.3) providing for the preparation and signing of documents by electronic means, the filing of documents by direct electronic transmission and the printing of documents filed by direct electronic transmission;
- (i) providing for forms and their use;
- (j) providing for the method of service of any document given or served under this Act;
- (j.1) deeming a person to be a person involved in carrying out a program of the Ministry for the purpose of subsection 184 (2);
- (k) designating any matter required to be designated or authorized by or referred to in this Act as designated;
- (l) subject to subsection (5), prescribing or respecting any matter that this Act refers to as a matter prescribed by the regulations or as otherwise dealt with by the regulations. 1997, c. 7, s. 3; 1998, c. 35, s. 30; 2001, c. 9, Sched. G, s. 5 (10); 2001, c. 17, s. 2 (42); 2009, c. 12, Sched. G, s. 19; 2009, c. 33, Sched. 15, s. 5 (6); 2010, c. 16, Sched. 7, s. 2 (68, 69).

Regulation under cl. (1) (f)

(2) For the purposes of clause (1) (f), a regulation prescribing conditions for the issuing of an environmental compliance approval may include conditions that specify that a person other than a municipality who submits an application for approval under Part II.1 in respect of an activity mentioned in subsection 27 (1) must deposit a sum of money or furnish a surety bond or personal sureties for the purposes of assuring satisfactory maintenance of the waste management system or the waste disposal site or the removal of waste from the site. 2010, c. 16, Sched. 7, s. 2 (70).

Regulation under cl. (1) (f.1)

(3) The power to make regulations under clause (1) (f.1) does not include the power to make regulations specifying the date on or before which an application for review of an environmental compliance approval in respect of an activity must be submitted. 2010, c. 16, Sched. 7, s. 2 (70).

Same

(4) A regulation mentioned in subsection (2) may prescribe terms and conditions upon which a deposit mentioned in subsection (2) may be returned to the depositor. 2010, c. 16, Sched. 7, s. 2 (70).

Minister's regulations

(5) The Minister may make regulations specifying anything that this Act describes as being specified in a regulation made by the Minister. 2010, c. 16, Sched. 7, s. 2 (70).

Regulations, additional

176. (1) The Lieutenant Governor in Council may make regulations,

- (a) Repealed: 1997, c. 7, s. 4 (1).
- (b) requiring the persons responsible for sources of contaminants in a class of sources of contaminants to monitor, record and report to the Ministry or to the persons specified in the regulations on the sources of contaminants including, but not

limited to, fuel, materials and methods of production used and intended to be used, the wastes and contaminants that will or are likely to be generated, the natural environment that may be affected by the discharge of the contaminants and the effects of the discharge of the contaminants, and to perform and report to the Ministry on research respecting methods of reducing or preventing the generation of wastes and contaminants from the sources of contaminants;

(c), (d) Repealed: 1997, c. 7, s. 4 (1).

- (e) prescribing maximum permissible amounts, concentrations or levels of any contaminant or combination of contaminants and any class of either of them;
- (f) prescribing methods or standards, or both, for determining the amount, concentration or level of any contaminant, combination of contaminants or any class of either of them;
- (g) governing the disposal of soil, rock or related material from property;
- (h) governing the discharge of any contaminant and prescribing requirements for any plant, structure, equipment, apparatus, mechanism or thing that may discharge a contaminant or from which a contaminant may be discharged in relation to,
 - (i) planning, design, siting, public notification and consultation, establishment, insurance, facilities, staffing, operation, maintenance, monitoring, record-keeping, submission of reports to the Director and improvement, and
 - (ii) the discontinuance of the operation of any plant, structure, equipment, apparatus, mechanism or thing;
- (h.1) governing the alteration or cessation of a process, rate of production or a rate or manner of discharge of contaminants into the natural environment;
- (h.2) deeming an environmental compliance approval to exist in respect of any plant, structure, equipment, apparatus, mechanism, thing, process, rate of production or rate or manner of discharge of a contaminant to which subsection 9 (1) would apply but for an exemption from the requirement to obtain an environmental compliance approval set out in a regulation;
- (h.3) deeming a renewable energy approval to exist in respect of a renewable energy project to which subsection 47.3 (1) would apply but for an exemption from the requirement to obtain a renewable energy approval set out in a regulation;
- (i) classifying plants, structures and things, prescribing classes thereof that shall not be constructed, altered or modified unless the plans and specifications thereof are approved by the Director, and prescribing classes thereof for which the approval of the Director as to the plans and specifications is not required;
- (j) prescribing the details that shall be set out in plans and specifications submitted to the Director for approval;
- (k) prescribing the amounts of grants and loans and the terms and conditions of such grants and loans;
- (l) prescribing the maximum permissible concentration or level in water of any contaminant either generally or with respect to any part of the water of Ontario specified in the regulations;
- (m) prescribing methods for determining the concentration or level in water of any

- contaminant, either generally or with respect to any part of the water of Ontario specified in the regulations, for the purposes of the regulations;
- (n) prescribing maximum permissible changes in temperatures of water, either generally or with respect to any part of the water of Ontario specified in the regulations;
- (o)-(r) Repealed: 1997, c. 7, s. 4 (1).
- (s) regulating the quality of fuels that may be used for heating, generating steam or electricity, industrial processes or incineration;
- (t) requiring and regulating the storage, treatment and disposal of sewage in vessels and the equipment therefor, and prohibiting the use and installation of equipment for the storage, treatment or disposal of sewage in vessels unless the equipment and installation thereof conform to the regulations, and providing for and requiring the approval of the Director for any such equipment and prohibiting and regulating the discharge of sewage from such vessels;
- (u) regulating and controlling, for the purpose of preventing or reducing the pollution of any water or places located on or adjacent to any water where moorings are provided for vessels or where any services are provided for vessels or the occupants thereof, and regulating and governing persons providing such moorings or services;
- (v) defining sewage for the purposes of regulations made under clauses (t) and (u);
- (w) governing payments out of the account referred to in section 182.2, including governing the circumstances in which payments may be made, governing the amounts of payments and governing procedures for determining what payments are made;
- (x) governing the development and implementation of plans required under paragraph 7 of subsection 18 (1) or section 91.1, including,
- (i) regulations requiring procedures to be followed, including procedures involving public consultation,
 - (ii) regulations establishing time limits related to the development and implementation of the plans,
 - (iii) regulations governing the contents of the plans, including requirements for provisions relating to updating the plans and testing compliance with the plans. R.S.O. 1990, c. E.19, s. 176 (1); 1997, c. 7, s. 4 (1); 2001, c. 17, s. 2 (43); 2005, c. 12, s. 1 (49, 50); 2009, c. 12, Sched. G, s. 20 (1); 2010, c. 16, Sched. 7, s. 2 (71).

Regulations relating to Part III

(2) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a), (b) Repealed: 1997, c. 7, s. 4 (2).
- (c) requiring motors or motor vehicles or any class or type of motor or motor vehicle to have installed thereon or incorporated therein one or more systems or devices to prevent or lessen the discharge of any contaminant into the natural environment, prescribing the standards and specifications of any such system or device, prescribing the standards of discharge of any contaminant into the natural

environment with which any such system or device shall comply and providing for testing and inspection of any such system or device;

- (d) prescribing the standards of emission into the natural environment of any contaminant or any by-product or product of combustion with which any motor or motor vehicle or any class or type of motor or motor vehicle shall comply and providing for the testing and inspection of any such motor, motor vehicle, class or type;
- (e) regulating the quality of motor fuels and additives used or intended for use in motor fuels in Ontario;
- (f) prescribing types of systems and types of devices for the purposes of subsections 22 (3) and (4). R.S.O. 1990, c. E.19, s. 176 (2); 1997, c. 7, s. 4 (2); 1998, c. 35, s. 31 (1, 2).

Regulations under clause (2) (d)

[\(2.1\)](#) A regulation under clause (2) (d) may prescribe standards of emission with reference to any criteria that the Lieutenant Governor in Council considers appropriate, including but not limited to standards prescribed with reference to the visibility or opacity of emissions. 1998, c. 35, s. 31 (3).

Regulations relating to Part II.1

[\(2.2\)](#) The Lieutenant Governor in Council may make regulations relating to Part II.1 requiring persons prescribed by the regulations to carry insurance, specifying the insurance that is required to be carried and specifying limits and conditions respecting insurance coverage. 2010, c. 16, Sched. 7, s. 2 (72).

Same, Minister's regulations

[\(2.3\)](#) The Minister may make regulations relating to Part II.1 specifying the date on or before which an application for review of an environmental compliance approval in respect of an activity must be submitted. 2010, c. 16, Sched. 7, s. 2 (72).

Regulations relating to Part II.2

[\(2.4\)](#) The Lieutenant Governor in Council may make regulations relating to Part II.2,

- (a) governing the establishment, operation and maintenance of the Registry, including requiring electronic registrations;
- (b) governing registrations and procedures for registering, which may include designating a person responsible for establishing procedures;
- (c) governing the maintenance of registrations and prescribing any information, reports, records or documents to be included in registrations;
- (d) prescribing the timing and requirements relating to periodic updating of registrations;
- (e) governing activities prescribed by the regulations for the purposes of subsection 20.21 (1);
- (f) prescribing measures that a provincial officer may require in a notice issued under section 157.4;
- (g) requiring persons with qualifications specified in the regulations to provide certifications as part of registrations;
- (h) governing certifications mentioned in clause (g);

- (i) governing requirements for financial assurance and methods of calculating financial assurance in respect of activities prescribed by the regulations for the purposes of subsection 20.21 (1) and prescribing environmental measures for which financial assurance may be required;
- (j) requiring persons prescribed by the regulations to carry insurance, specifying the insurance that is required to be carried and specifying limits and conditions respecting insurance coverage. 2010, c. 16, Sched. 7, s. 2 (72).

Regulations relating to Part IV

- (3) The Lieutenant Governor in Council may make regulations relating to Part IV,
 - (a) Repealed: 1997, c. 7, s. 4 (3).
 - (b) providing for the issue of permits and identification plates for ice shelters and requiring and governing their use;
 - (c) regulating the placing, construction and standard of repair of ice shelters and requiring and regulating the storage, treatment and disposal of waste and requiring the approval of the Director for any equipment and things related thereto by any person or class of persons and prohibiting the placing, allowing to remain or use of an ice shelter contrary to or in a condition that is contrary to the regulations or without any equipment or facilities required by the regulations;
 - (d) prescribing the dates within which ice shelters may be placed, allowed to remain or used on or over the ice over any water. R.S.O. 1990, c. E.19, s. 176 (3); 1997, c. 7, s. 4 (3).

Regulations relating to Part V

- (4) The Lieutenant Governor in Council may make regulations relating to Part V,
 - (a)-(c) Repealed: 1997, c. 7, s. 4 (4).
 - (d) governing the management of waste and prescribing requirements for waste management systems and waste disposal sites in relation to,
 - (i) planning, design, siting, buffer zones, public notification and consultation, establishment, insurance, facilities, staffing, operation, maintenance, monitoring, record-keeping, submission of reports to the Director and improvement,
 - (ii) the discontinuance of systems,
 - (iii) the closure of sites;
 - (e) governing the location of waste disposal sites and designating parts of Ontario in which no waste disposal sites shall be established or operated;
 - (f) Repealed: 2010, c. 16, Sched. 7, s. 2 (73).
 - (g) Repealed: 1997, c. 7, s. 4 (6).
 - (h) prescribing the form of application and the procedure to be followed in applying for any compensation under Part V;
 - (i) prescribing the rates of the fees for the disposal of any type of waste in a well that is a waste disposal site that shall be paid into the fund known in English as The Waste Well Disposal Security Fund and in French as Caisse de garantie des

propriétaires de puits d'élimination des déchets;

- (j) for the purpose of furthering the diversion of waste from final disposal, requiring municipalities and such other persons as may be specified in the regulation to establish such waste disposal sites or waste management systems as may be specified in the regulation;
- (k) requiring the persons referred to in clause (j) to maintain, operate, improve, enlarge, alter, repair or replace the waste disposal sites or waste management systems in such manner as may be specified in the regulation;
- (l) requiring municipalities and waste generators to conduct such studies in relation to waste management as may be specified in the regulation and requiring them to submit reports concerning the studies to the Director;
- (m) requiring municipalities and waste generators to submit to the Director plans concerning waste management;
- (n) prescribing plans concerning waste management;
- (o) requiring municipalities and waste generators to seek any approval required for the plans referred to in clause (m) or (n) or required for the implementation of those plans and to implement the plans;
- (p) requiring waste generators to achieve such objectives relating to waste management as are specified in the regulation;
- (q) regulating, with respect to the diversion of waste from final disposal, the waste management activities of such owners of premises housing generators of waste or persons responsible for the management of those premises as are specified in the regulation;
- (r) requiring persons referred to in clause (q) to prepare, implement and maintain a program under which such classes of waste as are specified in the regulation are kept separate in the manner specified in the regulation;
- (s) deeming an environmental compliance approval to exist in respect of a waste management system or waste disposal site. R.S.O. 1990, c. E.19, s. 176 (4); 1992, c. 1, s. 34 (1, 2); 1997, c. 7, s. 4 (4-6); 2010, c. 16, Sched. 7, s. 2 (73, 74).

Regulations relating to Part V.0.1

(4.1) The Lieutenant Governor in Council may make regulations relating to Part V.0.1,

- (a) governing the preparation and submission of applications for the issue, renewal or revocation of renewable energy approvals and applications to alter the terms and conditions of renewable energy approvals or to impose conditions on renewable energy approvals;
- (b) governing eligibility requirements relating to applications for the issue, renewal or revocation of renewable energy approvals, applications to alter the terms and conditions of renewable energy approvals or to impose conditions on renewable energy approvals, including requirements for consultation;
- (c) governing renewable energy generation facilities in relation to,
 - (i) planning, design, siting, buffer zones, notification and consultation, establishment, insurance, facilities, staffing, operation, maintenance, monitoring, record-keeping, submission of reports to the Director and

improvement,

- (ii) the discontinuance of the operation of any plant, structure, equipment, apparatus, mechanism or thing at a renewable energy generation facility,
- (iii) the closure of renewable energy generation facilities;
- (d) governing the location of renewable energy generation facilities, including prohibiting or regulating the construction, installation, use, operation or changing of renewable energy generation facilities in parts of Ontario;
- (e) prohibiting the transfer of a renewable energy approval or prescribing requirements for transferring a renewable energy approval, including requiring the written consent of the Director;
- (f) providing for transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of Part V.0.1. 2009, c. 12, Sched. G, s. 20 (2).

Regulations relating to Part VI

- (5) The Lieutenant Governor in Council may make regulations relating to Part VI,
 - (a)-(c) Repealed: 1997, c. 7, s. 4 (7).
 - (d) prescribing that designated industries devote a designated percentage of their budget to undertake research and development to develop substitutes for ozone depleting substances. R.S.O. 1990, c. E.19, s. 176 (5); 1997, c. 7, s. 4 (7).
- (6) Repealed: 1997, c. 30, Sched. B, s. 23.

Regulations relating to Part IX

- (7) The Lieutenant Governor in Council may make regulations relating to Part IX,
 - (a) defining standard, refillable, returnable, non-refillable or non-returnable in respect of containers and returnable or non-returnable in respect of packaging or defining any product for the purposes of the regulations;
 - (b) requiring payment of a deposit at the time of purchase of any material or any beverage packaged or contained in any class of packaging or container and regulating the amount, terms and conditions of deposits;
 - (b.1) requiring the payment of a deposit at the time of purchase of any material or any product, including any beverage, and regulating the amount, terms and conditions of deposits;
 - (c) requiring and regulating the stocking, display, sale, advertising or offering for sale of any product,
 - (i) in any class of container in relation to the stocking, display, sale, advertising or offering for sale of the product in any other class of container, or
 - (ii) only in a class of container that may be prescribed;
 - (d) prohibiting the sale, stocking, display, advertising or offering for sale in Ontario of any product in any class of container or in or by means of a vending machine;
 - (e) requiring and regulating the advertising or display of,
 - (i) the price of a product that is sold or offered for sale exclusive of the amount of any deposit payable on the purchase of the product,

- (ii) the amount of any deposit payable on the purchase of a product,
- (iii) the amount payable in return for any container,
- (iii.1) the amount payable in return for any packaging or product,
- (iv) copies of the regulations or portions of the regulations or a summary thereof in such form as may be prescribed by the regulations;
- (f) requiring or authorizing the placement of a notice or mark on products, containers, packaging or labels on products, containers or packaging to indicate such matters of waste management or environmental concern as are specified in the regulation;
- (f.1) requiring the placement of a notice or mark on products, containers, packaging or labels on products, containers or packaging respecting any payment to be made for their return;
- (f.2) governing the size, form, content and position of the notice or mark referred to in clause (f) or (f.1);
- (f.3) prohibiting the unauthorized use of a notice or mark referred to in clause (f);
- (g) requiring and regulating the payment of an amount in return for any packaging or container, prescribing the amount to be paid and requiring and regulating the acceptance and collection of any packaging or container by such classes of persons as may be designated by the regulations;
- (g.1) requiring and regulating the payment of an amount in return for any product, prescribing the amount to be paid and requiring and regulating the acceptance and collection of any product by such classes of persons as may be designated by the regulations;
- (h), (i) Repealed: 1997, c. 7, s. 4 (13).
- (j) requiring, regulating and prohibiting the use, advertising, offering for sale or sale in Ontario of any packaging or container, or any material or combination of materials used as packaging or a container;
- (k) providing a schedule for the regulation and the prohibition within five years of the use, offering for sale or sale in Ontario of non-refillable or non-returnable containers for any beverage;
- (l) regulating or prohibiting the sale and use of disposable products and of products that pose waste management problems;
- (l.1) requiring that disposable products and products that pose waste management problems be capable of being reused or recycled;
- (m) requiring and governing the placing of receptacles to receive litter and governing the capacity, design and construction of such receptacles;
- (n) prescribing the amounts of grants to persons to assist in the provision of receptacles to receive litter, and the terms and conditions of such grants;
- (o) requiring persons who manufacture, package, offer for sale or sell a packaged product to examine the impact of the packaging on the waste management needs, activities and opportunities of other persons and governments and requiring them to submit reports concerning the examination to the Director;

- (p) requiring persons who manufacture, package, offer for sale or sell a packaged product to conduct such examinations in relation to the packaging and waste management as may be specified in the regulation and requiring them to submit reports concerning the examinations to the Director;
- (q) requiring persons who manufacture, package, offer for sale or sell a packaged product to submit to the Director waste management plans in relation to the packaging of the products they manufacture, package, offer for sale or sell or any waste generated by their activities;
- (r) prescribing plans concerning waste management in relation to the packaging of packaged products;
- (s) requiring persons who manufacture, package, offer for sale, sell or purchase a packaged product to implement the plans referred to in clauses (q) and (r);
- (t) requiring persons who manufacture, package, offer for sale or sell a packaged product to achieve such waste management objectives in relation to the packaging of the products they manufacture, package, offer for sale or sell or any waste generated by their activities as are specified in the regulation;
- (u) declaring a product to be a product that poses waste management problems. R.S.O. 1990, c. E.19, s. 176 (7); 1992, c. 1, s. 34 (3-16); 1997, c. 7, s. 4 (13).

Regulations relating to Part X

- (8) The Lieutenant Governor in Council may make regulations relating to Part X,
 - (a) designating persons for the purposes of subsection 100 (1) and prescribing limitations that shall attach to any such designation;
 - (b) prescribing conditions that must be complied with by applicants for payment of compensation under subsection 101 (1) before payment of the compensation;
 - (c) prescribing conditions that shall attach to the payment of compensation under subsection 101 (1);
 - (d) designating discharges of pollutants and locations of discharges for the purposes of subsection 91 (2), but no discharge of pollutant shall be designated that is in accordance with an approval, licence, permit, order, certificate of property use or regulation under this Act or an approval, direction, notice, order, regulation or report under the *Ontario Water Resources Act* or a licence, order, permit or regulation under the *Pesticides Act*. R.S.O. 1990, c. E.19, s. 176 (8); 1997, c. 7, s. 4 (14, 15); 2001, c. 17, s. 2 (44); 2005, c. 12, s. 1 (51).

Regulations relating to Part XII

(9) The Lieutenant Governor in Council may make regulations relating to Part XII prescribing requirements for financial assurance in respect of the classes of approvals, orders or certificates of property use specified in the regulations. R.S.O. 1990, c. E.19, s. 176 (9); 2001, c. 17, s. 2 (45).

Regulations relating to Part XIII

- (9.1) The Lieutenant Governor in Council may make regulations relating to Part XIII,
 - (a) governing procedures for hearings required under section 142.1 and for applications to stay the operation of a decision made in respect of a renewable energy approval;

- (b) providing that section 142.1 does not apply in respect of a renewable energy approval, or prescribing circumstances in which section 142.1 does not apply in respect of a renewable energy approval, if,
 - (i) under Part II or II.1 of the *Environmental Assessment Act*, the holder of the renewable energy approval is authorized to proceed with the renewable energy project or was authorized, immediately before Part V.0.1 of this Act came into force, to proceed with the project,
 - (ii) pursuant to an exempting regulation made under the *Environmental Assessment Act*, a statement of completion in respect of the renewable energy project was filed with the Director appointed under that Act before Part V.0.1 of this Act came into force, or
 - (iii) all the approvals, permits and other instruments required under this Act and the *Ontario Water Resources Act* to engage in the renewable energy project were obtained before Part V.0.1 of this Act came into force. 2009, c. 12, Sched. G, s. 20 (3).

Same

[\(9.2\)](#) A regulation made under clause (9.1) (a) may provide that it prevails over a provision of the *Statutory Powers Procedure Act*, despite anything in that Act. 2009, c. 12, Sched. G, s. 20 (3).

Regulations relating to Part XV.1

- [\(10\)](#) The Lieutenant Governor in Council may make regulations relating to Part XV.1,
- (a) governing the establishment, operation and maintenance of the Registry, including the information that may be submitted for filing or filed in the Registry and the Director's powers and duties relating to the establishment, operation and maintenance of the Registry;
 - (b) governing the conduct of phase one environmental site assessments, including in respect of the conduct of an investigation of the existing and permitted land uses within the vicinity of a property for which a record of site condition is to be filed and in respect of what constitutes an existing or permitted land use and of what is within the vicinity of the property;
 - (c) prescribing circumstances in which phase two environmental site assessments are required;
 - (d) governing the conduct of phase two environmental site assessments;
 - (e) prescribing the qualifications of qualified persons, including requiring approval of qualified persons by a person or body specified in the regulations, and governing the approval process and the terms and conditions that may be imposed when issuing or amending an approval;
 - (e.1) governing the payment of fees in respect of any approval required by a regulation made under clause (e);
 - (e.2) providing for and governing the revocation or suspension, by a person or body specified in the regulations, of any approval required by a regulation made under clause (e), and providing for and governing appeals to a person or body specified in the regulations of decisions to revoke or suspend an approval;

- (e.3) requiring qualified persons to carry insurance specified in the regulations;
- (e.4) delegating to a person or body specified in the regulations any power to make regulations under clauses (e), (e.1), (e.2) and (e.3);
- (f) governing the form, content and completion of records of site condition;
- (g) governing the determination of the certification date applicable to a record of site condition;
- (h) prescribing full depth background site condition standards, full depth generic site condition standards and stratified site condition standards for property, including standards related to maximum contaminant amounts, concentrations or levels;
- (i) governing the determination of which full depth background site condition standards, full depth generic site condition standards or stratified site condition standards are applicable to a property;
- (i.1) governing the circumstances in which full depth background site condition standards, full depth generic site condition standards or stratified site condition standards must be applied to a property;
- (j) prescribing the methods to be used in determining whether property meets standards prescribed by the regulations or standards specified in a risk assessment;
- (k) governing the preparation of risk assessments, the form and content of risk assessments, and procedures relating to the submission of risk assessments to the Director under subsection 168.5 (1);
- (l) prescribing a dispute resolution system, including mediation and conciliation, that may be used in connection with risk assessments that are submitted to, but not accepted by, the Director under subsection 168.5 (1);
- (m) governing the management of soil on, in or under property for which a record of site condition has been filed in the Registry;
- (m.1) governing the assessment of contaminants that were discharged into the natural environment and that are on, in or under a property for which a record of site condition is to be filed;
- (n) governing the filing in the Registry of notices under sections 168.7.2 and 168.8;
- (o) defining any word or expression used in Part XV.1 that is not already defined;
- (p) respecting any matter that the Lieutenant Governor in Council considers advisable to carry out effectively the intent and purpose of Part XV.1. 2001, c. 17, s. 2 (46); 2007, c. 7, Sched. 13, s. 13.

Regulations, market-based approaches, etc.

176.1 (1) The Lieutenant Governor in Council may make regulations establishing programs and other measures for the use of economic and financial instruments and market-based approaches, including without being limited to emissions trading, for the purposes of maintaining or improving existing environmental standards, protecting the environment and achieving environmental quality goals in a cost effective manner. 2009, c. 27, s. 2 (1).

Same, included powers

(2) Without limiting the generality of subsection (1), the power to make regulations

under subsection (1) includes the power to make regulations,

- (a) prescribing the persons, entities and facilities to which programs and other measures established under subsection (1) apply;
- (b) governing the economic and financial instruments to be used in programs and other measures established under subsection (1), including,
 - (i) providing for the instruments to be created by or in accordance with the regulations and governing the creation of those instruments,
 - (ii) providing for instruments created by the regulations under subclause (i) to be distributed free of charge, and governing the distribution of those instruments,
 - (iii) governing the use, trading and retirement of instruments created by or in accordance with the regulations under subclause (i),
 - (iv) governing the use and trading, for the purpose of programs and other measures established under subsection (1), of instruments created in other jurisdictions, and
 - (v) requiring notice to be given to other jurisdictions of the use or trading, for the purpose of programs and other measures established under subsection (1), of instruments created in those jurisdictions;
- (c) prescribing requirements that must be met by persons, entities and facilities to which programs and other measures established under subsection (1) apply, including requirements related to the emission, monitoring and reporting of contaminants;
- (d) attributing emissions to a person, entity or facility for the purpose of programs and other measures established under subsection (1);
- (e) providing for or designating a person or body to administer programs and other measures established under subsection (1). 2009, c. 27, s. 2 (1).

Same, powers under ss. 175.1 and 176 (1)

(3) Without limiting the generality of subsection (1), with respect to programs and other measures established by regulations made under that subsection, the power to make regulations under subsection (1) includes the power to make any regulation that may be made under section 175.1 or subsection 176 (1). 2009, c. 27, s. 2 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 176.1 is amended by adding the following subsections:

Same, greenhouse gases

(4) A regulation under this section that relates to greenhouse gases may,

- (a) provide for instruments created by the regulations under subclause (2) (b) (i) to be distributed free of charge, or by auction, sale or other means that are not free of charge, and governing the distribution of those instruments;
- (b) authorize a person or body to prescribe, govern or otherwise determine any matter that may be prescribed, governed or otherwise determined by the Lieutenant Governor in Council under this section. 2009, c. 27, s. 2 (2).

Same

- [\(5\)](#) Without limiting the generality of clause (4) (a), a regulation under that clause may,
- (a) prescribe objectives and other matters that must be considered in setting the percentages of instruments to be distributed by any of the means referred to in clause (4) (a);
 - (b) prescribe objectives and other matters that must be considered in setting reserve bids for instruments distributed by auction or sale prices for instruments distributed by sale. 2009, c. 27, s. 2 (2).

Greenhouse Gas Reduction Account

- [\(6\)](#) Any amount paid to the Minister of Finance from the distribution of instruments under the regulations made under clause (4) (a) shall be deposited in a separate account in the Consolidated Revenue Fund to be known in English as the Greenhouse Gas Reduction Account and in French as Compte de réduction des gaz à effet de serre. 2009, c. 27, s. 2 (2).

Same

- [\(7\)](#) For the purpose of the *Financial Administration Act*, money deposited in the Greenhouse Gas Reduction Account shall be deemed to be money paid to Ontario for the special purpose described in subsection (8). 2009, c. 27, s. 2 (2).

Payments out of account

- [\(8\)](#) Money may be paid out of the Greenhouse Gas Reduction Account for the purpose of reimbursing the Crown in right of Ontario for costs incurred by the Crown in administering the regulations under this section that relate to greenhouse gases and in carrying out or supporting greenhouse gas reduction initiatives, particularly initiatives that relate to the sectors of the Ontario economy to which the regulations apply. 2009, c. 27, s. 2 (2).

Same

- [\(9\)](#) Without limiting the generality of subsection (8), money may be paid out of the account under that subsection with respect to the following costs:

1. The costs of research into or the development or deployment of lower greenhouse gas emitting technologies in a sector of the Ontario economy to which the regulations under clause (4) (a) apply.
2. The costs of programs to reduce greenhouse gas emissions in a sector of the Ontario economy to which the regulations under clause (4) (a) apply.
3. The costs of infrastructure or equipment to reduce greenhouse gas emissions in a sector of the Ontario economy to which the regulations under clause (4) (a) apply.
4. If the regulations made under clause (4) (a) apply to the electricity sector of the Ontario economy, costs of any greenhouse gas reduction initiative that would otherwise be borne by electricity consumers. 2009, c. 27, s. 2 (2).

See: 2009, c. 27, ss. 2 (2), 3 (2).

Regulations, general rules

- [177. \(1\)](#) A regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation.

1997, c. 7, s. 5.

Classes

[\(2\)](#) A regulation may apply in respect of any class of activity, matter, person or thing. 1997, c. 7, s. 5.

Same

[\(3\)](#) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics. 1997, c. 7, s. 5.

Adoption of documents in regulations

[\(4\)](#) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any document, including a code, formula, standard, protocol or procedure, and may require compliance with any document so adopted. 2010, c. 16, Sched. 7, s. 2 (75).

Rolling incorporation by reference

[\(5\)](#) The power to adopt by reference and require compliance with a document in subsection (4) includes the power to adopt a document as it may be amended from time to time. 2010, c. 16, Sched. 7, s. 2 (76).

When effective

[\(6\)](#) The adoption of an amendment to a document that has been adopted by reference comes into effect upon the Ministry publishing notice of the amendment in *The Ontario Gazette* or in the registry under the *Environmental Bill of Rights, 1993*. 1997, c. 7, s. 5; 2010, c. 16, Sched. 7, s. 2 (77).

Bar of action

[177.1](#) No action or other proceeding shall be brought against the Crown, the Minister or an employee or agent of the Crown because of anything arising out of or in relation to a matter carried on or purported to be carried on pursuant to a regulation that exempts a person from the requirement to obtain a licence, environmental compliance approval, renewable energy approval or permit. 1997, c. 7, s. 5; 2009, c. 12, Sched. G, s. 21; 2010, c. 16, Sched. 7, s. 2 (78).

[178.](#) Repealed: 2001, c. 25, s. 484 (2).

Conflict with other legislation

[179. \(1\)](#) Where a conflict appears between any provision of this Act or the regulations and any other Act or regulation in a matter related to the natural environment or a matter specifically dealt with in this Act or the regulations, the provision of this Act or the regulations shall prevail.

Idem

[\(2\)](#) Subsection (1) does not apply in respect of section 178 and the enactment of section 178 or a by-law pursuant to section 178 does not affect the validity of an Act that was in force immediately before the 8th day of October, 1975. R.S.O. 1990, c. E.19, s. 179.

Fees

[179.1](#) The Minister may establish and require the payment of fees in respect of any matter under this Act, specify to whom the fees are paid, provide for the retention of all or part of the fees by the person to whom they are paid and provide for the refund of fees. 2001, c. 9, Sched. G, s. 5 (12).

Protection from personal liability

180. (1) No action or other proceeding may be instituted against the following persons for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of such a duty or authority:

1. Repealed: 2009, c. 33, Sched. 2, s. 28 (2).
2. An employee in the Ministry.
3. A provincial officer employed under Part III of the *Public Service of Ontario Act, 2006*.
4. A public servant employed under Part III of the *Public Service of Ontario Act, 2006* who is acting under the direction of a person described in paragraph 2 or 3. 2006, c. 35, Sched. C, s. 36 (8); 2009, c. 33, Sched. 2, ss. 28 (2, 3).

Exception

(1.1) Subsection (1) does not apply in the case of an application for judicial review or an action or proceeding that is specifically provided for under this or any other Act with respect to a person referred to in that subsection. 2006, c. 35, Sched. C, s. 36 (8).

Crown not relieved of liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1990, c. E.19, s. 180 (2); 2009, c. 33, Sched. 15, s. 5 (7).

Service on commercial drivers of offence notice or summons

181. (1) In this section,

“commercial motor vehicle” and “motor vehicle” have the same meanings as in the *Highway Traffic Act*; (“véhicule utilitaire”, “véhicule automobile”)

“offence notice or summons” means,

- (a) an offence notice or summons under Part I of the *Provincial Offences Act*, or
- (b) a summons under Part III of the *Provincial Offences Act*. (“avis d’infraction ou assignation”) R.S.O. 1990, c. E.19, s. 181 (1); 1998, c. 35, s. 32 (1).

Same

(2) Delivery of an offence notice or summons to the operator of a commercial motor vehicle in respect of an offence under this Act related to the use of the vehicle shall be deemed to be personal service of the offence notice or summons on the owner or lessee of the vehicle who is named in the offence notice or summons.

Employer

(3) Delivery of an offence notice or summons to the operator of a motor vehicle in respect of an offence under this Act related to the use of the vehicle in the course of the operator’s employment shall be deemed to be personal service of the offence notice or summons on the employer of the operator of the vehicle. R.S.O. 1990, c. E.19, s. 181 (2, 3).

(4) Repealed: 1998, c. 35, s. 32 (2).

Exception

(5) Subsection (2) does not apply if, at the time of the offence, the vehicle was in the possession of the operator without the consent of the owner or lessee of the vehicle, as the case may be, but the burden of proof of that shall be on the owner or lessee of the vehicle.

Permit holder deemed owner

(6) For the purposes of this section, the holder of a permit under Part II of the *Highway Traffic Act* shall be deemed to be the owner of the vehicle referred to in the permit if a number plate under that Part bearing a number that corresponds to the permit was displayed on the vehicle at the time the offence was committed.

Application of subs. (6)

(7) Subsection (6) does not apply if the number plate was displayed on the vehicle without the consent of the holder of the permit, but the burden of proof of that shall be on the holder of the permit. R.S.O. 1990, c. E.19, s. 181 (5-7).

Service on various entities of offence notice or summons

Municipal corporations

181.1 (1) Service of an offence notice or summons on a municipal corporation may be effected by delivering it personally to the mayor, warden, reeve or other chief officer of the municipal corporation or to the clerk of the municipal corporation.

Other corporations

(2) Service of an offence notice or summons on a corporation other than a municipal corporation may be effected by delivering it personally to the manager, secretary or other officer of the corporation or to a person apparently in charge of a branch office of the corporation.

Partnership

(3) Service of an offence notice or summons on a partnership may be effected by delivering it personally to a partner or to a person apparently in charge of an office of the partnership.

Sole proprietorship

(4) Service of an offence notice or summons on a sole proprietorship may be effected by delivering it personally to the sole proprietor or to a person apparently in charge of an office of the sole proprietorship.

Substituted service

(5) On application without notice, a justice, on being satisfied that service cannot be made effectively in accordance with subsections (1) to (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the municipal corporation, other corporation, partnership or sole proprietorship. 1998, c. 35, s. 33.

Service generally

182. (1) Any document given or served under this Act or the regulations is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry;
or
- (c) given or served in accordance with regulations respecting service.

When service deemed made

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the notice or order until a later date. R.S.O. 1990, c. E.19, s. 182.

Environmental penalties

182.1 (1) Subject to the regulations, the Director may issue an order requiring a regulated person to pay a penalty if,

- (a) the regulated person contravenes,
 - (i) section 14,
 - (ii) section 93,
 - (iii) a provision of the regulations that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment,
 - (iv) a provision of an order under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment, or
 - (v) a provision of an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment; or
- (b) the regulated person contravenes a provision, other than a provision referred to in clause (a), of,
 - (i) this Act or the regulations,
 - (ii) an order under this Act, other than an order under section 99.1, 100.1 or 150 or an order of a court,
 - (iii) an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act,
 - (iv) a report under section 29, or
 - (v) an agreement under subsection (9). 2005, c. 12, s. 1 (52); 2009, c. 12, Sched. G, s. 22 (1, 2); 2010, c. 16, Sched. 7, s. 2 (79, 80).

Exceptions

(2) Subsection (1) does not apply to,

- (a) a contravention of section 14, if,
 - (i) neither this Act nor the *Ontario Water Resources Act* requires the regulated person to notify the Ministry of the discharge to which the contravention relates, or
 - (ii) the discharge to which the contravention relates was authorized under this

Act or the *Ontario Water Resources Act*; or

(b) a contravention of section 184. 2005, c. 12, s. 1 (52).

Contents of order

(3) The order shall be served on the person who is required to pay the penalty and shall,

- (a) contain a description of the contravention to which the order relates, including, where appropriate, the date and location of the contravention;
- (b) in the case of a contravention of section 14, contain a description of the adverse effects that were caused by or that may be caused by the contravention;
- (c) specify the amount of the penalty;
- (d) give particulars respecting the time for paying the penalty and the manner of payment; and
- (e) provide information to the person as to the person's rights under section 140. 2005, c. 12, s. 1 (52).

Amount

(4) The amount of the penalty shall be determined in accordance with the regulations. 2005, c. 12, s. 1 (52).

Maximum penalty

(5) The amount of the penalty shall not exceed \$100,000 for each day or part of a day on which the contravention occurred or continued. 2005, c. 12, s. 1 (52).

Absolute liability

- (6) A requirement that a person pay an environmental penalty applies even if,
- (a) the person took all reasonable steps to prevent the contravention; or
 - (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent. 2005, c. 12, s. 1 (52).

Same

(7) For greater certainty, nothing in subsection (6) affects the prosecution of an offence. 2005, c. 12, s. 1 (52).

Limitation

(8) An order requiring payment of an environmental penalty shall be served not later than the first anniversary of the later of the following dates:

1. The date the contravention occurred.
2. The date on which the evidence of the contravention first came to the attention of the Director or a provincial officer. 2005, c. 12, s. 1 (52).

Agreements

(9) The Director and a person against whom an order may be or has been made under subsection (1) may enter into an agreement that,

- (a) identifies the contravention in respect of which the order may be or has been made;
- (b) requires the person against whom the order may be or has been made to take steps

specified in the agreement within the time specified in the agreement; and

- (c) provides that the obligation to pay the penalty may be cancelled in accordance with the regulations or the amount of the penalty may be reduced in accordance with the regulations. 2005, c. 12, s. 1 (52).

Publication of agreements

(10) The Ministry shall publish every agreement entered into under subsection (9) in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*. 2005, c. 12, s. 1 (52).

Penalty does not prevent prosecution

(11) A person may be charged, prosecuted and convicted of an offence under this Act in respect of a contravention referred to in subsection (1) even if an environmental penalty has been imposed on or paid by the person or another person in respect of the contravention. 2005, c. 12, s. 1 (52).

No admission

(12) If a person pays a penalty imposed under subsection (1) in respect of a contravention or enters into an agreement under subsection (9) in respect of a contravention, the payment or entering into of the agreement is not, for the purposes of any prosecution in respect of the contravention, an admission that the person committed the contravention. 2005, c. 12, s. 1 (52).

Failure to pay when required

(13) If a person who is required to pay an environmental penalty fails to comply with the requirement,

- (a) the order or decision that requires the payment may be filed with a local registrar of the Superior Court of Justice and may be enforced as if it were an order of the court;
- (b) the Director may by order suspend any environmental compliance approval, renewable energy approval, licence or permit that has been issued to the person under this Act until the environmental penalty is paid; and
- (c) the Director may refuse to issue any environmental compliance approval, renewable energy approval, licence or permit to the person under this Act until the environmental penalty is paid. 2005, c. 12, s. 1 (52); 2009, c. 12, Sched. G, s. 22 (3, 4); 2010, c. 16, Sched. 7, s. 2 (81, 82).

Same

(14) Section 129 of the *Courts of Justice Act* applies in respect of an order or decision filed with the Superior Court of Justice under subsection (13) and, for that purpose, the date on which the order or decision is filed under subsection (13) shall be deemed to be the date of the order that is referred to in section 129 of the *Courts of Justice Act*. 2005, c. 12, s. 1 (52).

Regulations

(15) The Lieutenant Governor in Council may make regulations,

- (a) specifying the form and content of orders under subsection (1);
- (b) specifying types of contraventions or circumstances in respect of which an order may not be issued under subsection (1);

- (c) requiring and governing public consultation before an agreement is entered into under subsection (9) and, subject to that subsection and to any regulations made under subclause (d) (iv), governing the contents of agreements under that subsection;
- (d) governing the determination of the amounts of environmental penalties, including,
 - (i) prescribing criteria to be considered in the exercise of any discretion,
 - (ii) providing that the total amount of the penalty for a contravention that occurs or continues for more than one day not exceed a maximum prescribed by the regulations,
 - (iii) providing for different amounts depending on when an environmental penalty is paid,
 - (iv) with respect to agreements under subsection (9), governing the cancellation of the obligation to pay an environmental penalty or the reduction of the amount of an environmental penalty;
- (e) prescribing circumstances in which a person is not required to pay an environmental penalty;
- (f) prescribing procedures related to environmental penalties;
- (g) respecting any other matter necessary for the administration of a system of penalties provided for by this section. 2005, c. 12, s. 1 (52).

General or particular

[\(16\)](#) A regulation under subsection (15) may be general or particular in its application. 2005, c. 12, s. 1 (52).

Regulations governing determination of amounts

[\(17\)](#) The regulations made under clause (15) (d) must, with respect to a contravention referred to in clause (1) (a), provide for the following matters:

1. The person who is required to pay the penalty must be entitled,
 - i. to seek and obtain a reduction in the amount of the penalty if the person took steps prescribed by the regulations to prevent the contravention in respect of which the penalty is imposed, and
 - ii. to seek and obtain a reduction in the amount of the penalty if the person took steps prescribed by the regulations to mitigate the effects of the contravention in respect of which the penalty is imposed.
2. The determination of the amount of the penalty must take into account factors prescribed by the regulations that relate to the seriousness of the contravention in respect of which the penalty is imposed.
3. If the Director is of the opinion that, as a result of the contravention in respect of which the penalty is imposed, a monetary benefit prescribed by the regulations was acquired by the person who is required to pay the penalty, the amount of the benefit must be considered in determining the amount of the penalty. 2005, c. 12, s. 1 (52).

Environmental management systems

[\(18\)](#) The regulations made under clause (15) (d) must provide for a reduction in the amount of an environmental penalty if, at the time the contravention to which the penalty relates occurred, the person who is required to pay the penalty had in place an environmental management system specified by the regulations. 2005, c. 12, s. 1 (52).

Annual report

[\(19\)](#) The Minister shall, not later than March 31 in each year, publish a report that sets out the following information for each contravention in respect of which an order was made under this section during the previous year:

1. The name of the person against whom the order was made.
2. The amount of the penalty.
3. A description of the contravention.
4. An indication of whether an agreement was entered into under subsection (9) in respect of the order and, if an agreement was entered into, the effect of the agreement on the obligation to pay the penalty or on the amount of the penalty. 2005, c. 12, s. 1 (52).

Five-year review

[\(20\)](#) At least once every five years, the Minister shall cause a report to be prepared and published on the operation of this section, including the effect of this section on prosecutions under this Act and including recommendations on the contraventions to which and circumstances in which orders should be issued under subsection (1). 2005, c. 12, s. 1 (52).

Application

[\(21\)](#) This section does not apply to contraventions that occurred before this section came into force. 2005, c. 12, s. 1 (52).

Special purpose account

[182.2 \(1\)](#) Environmental penalties paid under this Act shall be deposited in a separate account in the Consolidated Revenue Fund. 2005, c. 12, s. 1 (53).

Same

[\(2\)](#) For the purpose of the *Financial Administration Act*, money deposited in the account referred to in subsection (1) shall be deemed to be money paid to Ontario for a special purpose. 2005, c. 12, s. 1 (53).

Payments out of account

[\(3\)](#) Subject to the regulations, if money is deposited in the account referred to in subsection (1), the Minister of the Environment may direct that money be paid out of the account for the following purposes:

1. To compensate persons or bodies who incurred costs or expenses or suffered other losses as a result of a spill of a pollutant within the meaning of Part X, including providing funds for making compensation payments under section 101.
2. To provide financial assistance to persons or bodies who undertake environmental remediation projects.
3. Such other purposes as are prescribed by the regulations. 2005, c. 12, s. 1 (53).

Administrative penalties

[182.3 \(1\)](#) The purpose of an administrative penalty issued under this section is,

(a) to ensure compliance with,

- (i) the requirement to apply for a review under subsection 20.4 (2),
- (ii) the requirement to register an activity under subsection 20.21 (1),
- (iii) the requirement to maintain and update a registration under subsection 20.22 (2), or
- (iv) the requirement to carry out measures set out in a notice under section 157.4; or

(b) to prevent a person or entity from deriving, directly or indirectly, any economic benefit as a result of contravening the requirements mentioned in clause (a). 2010, c. 16, Sched. 7, s. 2 (83).

Order by provincial officer

[\(2\)](#) A provincial officer may, subject to the regulations, issue an order requiring a person to pay an administrative penalty if,

- (a) the provincial officer is of the opinion that the person has contravened any of the requirements mentioned in clause (1) (a); and
- (b) the regulations authorize the issue of the order by a provincial officer. 2010, c. 16, Sched. 7, s. 2 (83).

Order by Director

[\(3\)](#) The Director may, subject to the regulations, issue an order requiring a person to pay an administrative penalty if the Director is of the opinion that the person has contravened any of the requirements mentioned in clause (1) (a). 2010, c. 16, Sched. 7, s. 2 (83).

Limitation

[\(4\)](#) An order mentioned in subsection (2) or (3) shall be served not later than one year after the day on which evidence of the contravention first came to the attention of a provincial officer or the Director. 2010, c. 16, Sched. 7, s. 2 (83).

Orders not to be issued to employees, officers, directors or agents

[\(5\)](#) If a person who is required to comply with a requirement mentioned in subsection (1) is a corporation, an order under subsection (2) or (3) shall not be issued to an employee, officer, director or agent of the corporation. 2010, c. 16, Sched. 7, s. 2 (83).

Amount of penalty

[\(6\)](#) The amount of the administrative penalty for each day or part of a day on which a contravention occurred or continues to occur shall be determined by the provincial officer or the Director in accordance with the regulations. 2010, c. 16, Sched. 7, s. 2 (83).

Total penalty

[\(7\)](#) Subject to subsection (8), the amount of the administrative penalty shall not exceed \$100,000 for each contravention. 2010, c. 16, Sched. 7, s. 2 (83).

Same, provincial officer

[\(8\)](#) The amount of the administrative penalty specified in an order issued by a provincial officer shall not exceed \$5,000 for each contravention. 2010, c. 16, Sched. 7, s. 2 (83).

Contents of notice

[\(9\)](#) An order mentioned in subsection (2) or (3) shall be served on the person who is

required to pay the administrative penalty and shall,

- (a) contain a description of the contravention to which the order relates, including, if appropriate, the date of the contravention;
 - (b) specify the amount of the penalty;
 - (c) give particulars respecting the time for paying the penalty and the manner of payment; and
 - (d) provide information to the person as to the person's right to require,
 - (i) a hearing under section 140, if the order is issued by the Director, or
 - (ii) a review under section 182.4, if the order is issued by a provincial officer.
- 2010, c. 16, Sched. 7, s. 2 (83).

Absolute liability

[\(10\)](#) A requirement that a person pay an administrative penalty applies even if,

- (a) the person took all reasonable steps to prevent the contravention; or
- (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent. 2010, c. 16, Sched. 7, s. 2 (83).

Same

[\(11\)](#) For greater certainty, nothing in subsection (10) affects the prosecution of an offence. 2010, c. 16, Sched. 7, s. 2 (83).

Payment prevents conviction

[\(12\)](#) A person who pays an administrative penalty in respect of a contravention and has remedied the contravention shall not be convicted of an offence under this Act in respect of the same contravention. 2010, c. 16, Sched. 7, s. 2 (83).

Regulations

[\(13\)](#) The Lieutenant Governor in Council may make regulations,

- (a) specifying the form and content of orders under this section;
- (b) governing the determination of the amount of administrative penalties;
- (c) respecting any matter necessary for the administration of the system of administrative penalties. 2010, c. 16, Sched. 7, s. 2 (83).

Review of administrative penalty imposed by provincial officer

[182.4 \(1\)](#) A person who is required by an order issued by a provincial officer to pay an administrative penalty may, within seven days after being served with the order, request that the Director review the order. 2010, c. 16, Sched. 7, s. 2 (83).

Request for review

[\(2\)](#) A request for a review shall be made in writing and shall include,

- (a) a statement of whether the review applies to the liability to pay the penalty, the amount of the penalty or both;
- (b) any submissions that the person requesting the review wishes the Director to consider; and
- (c) for the purposes of subsection (7), an address for service by mail, fax or such other means of service as the regulations may prescribe. 2010, c. 16, Sched. 7, s. 2

(83).

Stay

(3) If a person requests a review, the requirement to pay the administrative penalty is stayed until the disposition of the matter. 2010, c. 16, Sched. 7, s. 2 (83).

Decision of Director

(4) A Director who receives a request for a review may,

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person who requested the review, confirm or alter the order of the provincial officer. 2010, c. 16, Sched. 7, s. 2 (83).

Same

(5) For the purposes of subsection (4), the Director may substitute his or her opinion for that of the provincial officer. 2010, c. 16, Sched. 7, s. 2 (83).

Amount of penalty

(6) For greater certainty, if the review applies to the amount of the penalty, the regulations made under clause 182.3 (13) (b) apply for the purposes of the review. 2010, c. 16, Sched. 7, s. 2 (83).

Notice of decision

(7) The Director shall serve a person requesting a review with a copy of,

- (a) the Director's decision or order under subsection (4); and
- (b) if the Director issues an order under clause (4) (b), the reasons for the order. 2010, c. 16, Sched. 7, s. 2 (83).

Automatic confirmation of order

(8) If the Director does not comply with subsection (7) within seven days after receiving a request for a review, the order in respect of which the review was requested shall be deemed to have been confirmed by order of the Director. 2010, c. 16, Sched. 7, s. 2 (83).

Same

(9) For the purposes of section 140, a deemed confirmation by order of the Director under subsection (8) shall be,

- (a) deemed to be directed to the person to whom the order of the provincial officer was directed; and
- (b) deemed to have been served on the person mentioned in clause (a) on the last day of the time period mentioned in subsection (8). 2010, c. 16, Sched. 7, s. 2 (83).

Exception

(10) Subsections (8) and (9) do not apply if, within seven days after receiving the request for a review, the Director gives written notice to the person requesting the review stating that the Director requires additional time to make a decision. 2010, c. 16, Sched. 7, s. 2 (83).

Regulations

(11) The Lieutenant Governor in Council may make regulations specifying the form and content of orders under this section. 2010, c. 16, Sched. 7, s. 2 (83).

Failure to pay administrative penalty when required

182.5 (1) If a person who is required to pay an administrative penalty fails to comply

with the requirement,

- (a) the order that requires payment may be filed with a local registrar of the Superior Court of Justice and the order may be enforced as if it were an order of the court;
- (b) the Director may, by order, suspend any registration filed under Part II.2 or any permit, licence or environmental compliance approval issued to the person under this Act until the administrative penalty is paid; and
- (c) the Director may refuse to issue any permit, licence or environmental compliance approval to the person or refuse to amend any permit, licence or environmental compliance approval issued to the person under this Act until the administrative penalty is paid. 2010, c. 16, Sched. 7, s. 2 (83).

Same

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed under clause (1) (a) and, for that purpose, the date on which the order is filed under clause (1) (a) shall be deemed to be the date of the order that is referred to in section 129 of the *Courts of Justice Act*. 2010, c. 16, Sched. 7, s. 2 (83).

Power to restrain

By action

183. (1) Where this Act or the regulations or any direction, order, certificate of property use, approval, notice or permit, made, granted, given, served or issued by the Minister, the Director or a provincial officer under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, such contravention may be restrained by action at the instance of the Minister. R.S.O. 1990, c. E.19, s. 183 (1); 2001, c. 17, s. 2 (48).

By order upon conviction

(2) On its own initiative or on application by counsel for the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other remedy and to any other penalty imposed by law, may make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. R.S.O. 1990, c. E.19, s. 183 (2).

Compliance with investigations, etc.

Obstruction

184. (1) No person shall hinder or obstruct any provincial officer or any employee in or agent of the Ministry in the performance of his or her duties under this Act. 1998, c. 35, s. 35; 2006, c. 35, Sched. C, s. 36 (9); 2009, c. 33, Sched. 15, s. 5 (8).

False information

(2) No person shall orally, in writing or electronically, give or submit false or misleading information in any statement, document or data, to any provincial officer, the Minister, the Ministry, any employee in or agent of the Ministry or any person involved in carrying out a program of the Ministry in respect of any matter related to this Act or the regulations. 1998, c. 35, s. 35; 2001, c. 9, Sched. G, s. 5 (15); 2006, c. 35, Sched. C, s. 36 (10); 2009, c. 33, Sched. 15, s. 5 (9).

Same

(3) No person shall include false or misleading information in any document or data required to be created, stored or submitted under this Act. 1998, c. 35, s. 35.

Refusal to furnish information

(4) No person shall refuse to furnish any provincial officer, the Minister, the Ministry or any employee in or agent of the Ministry with information required for the purposes of this Act and the regulations. 1998, c. 35, s. 35; 2006, c. 35, Sched. C, s. 36 (11); 2009, c. 33, Sched. 15, s. 5 (10).

Presiding judge

185. The Crown, by notice to the clerk of the Ontario Court of Justice, may require that a provincial judge preside over a proceeding in respect of an offence under this Act. R.S.O. 1990, c. E.19, s. 185; 2001, c. 9, Sched. G, s. 5 (16); 2006, c. 21, Sched. C, s. 108 (1).

Offences

General

186. (1) Every person who contravenes this Act or the regulations is guilty of an offence. R.S.O. 1990, c. E.19, s. 186 (1).

Exception

(1.1) Subsection (1) does not apply to a contravention of section 14 unless the contravention causes or is likely to cause an adverse effect. 2005, c. 12, s. 1 (54).

Offence re order

(2) Every person who fails to comply with an order under this Act, other than an order under section 99.1, 100.1, 150 or 182.1, is guilty of an offence. R.S.O. 1990, c. E.19, s. 186 (2); 2005, c. 12, s. 1 (55).

Offence re approval, licence or permit, etc.

(3) Every person who fails to comply with the terms and conditions of an environmental compliance approval, certificate of property use or renewable energy approval or of a licence or permit under this Act or who fails to comply with the terms of a report under section 29 is guilty of an offence. 2010, c. 16, Sched. 7, s. 2 (84).

Offence re fees

(3.1) Every person who fails to pay a fee that the person is required to pay under section 179.1 is guilty of an offence. 2001, c. 9, Sched. G, s. 5 (17).

Exception when order or program approval complied with

(4) Despite subsections (1), (2) and (3), a person to whom an order of the Minister, the Director or a provincial officer or a program approval of the Director is directed who complies fully with the order or approval shall not be prosecuted for or convicted of an offence in respect of the matter or matters dealt with in the order or approval that occurs during the period within which the order or program approval is applicable. 1998, c. 35, s. 36.

Same

(5) The protection from prosecution under subsection (4) does not include protection from the imposition of an environmental penalty. 1998, c. 35, s. 36; 2005, c. 12, s. 1 (56).

(6) Repealed: 1998, c. 35, s. 36.

Penalties

187. (1) Every individual convicted of an offence under section 186, other than an offence described in subsection (3), is liable,

(a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000; and

(b) on each subsequent conviction,

- (i) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$100,000,
- (ii) to imprisonment for a term of not more than one year, or
- (iii) to both such fine and imprisonment. 2005, c. 12, s. 1 (57).

Same: corporations

(2) Every corporation convicted of an offence under section 186, other than an offence described in subsection (3), is liable,

- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$250,000; and
- (b) on each subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$500,000. 2005, c. 12, s. 1 (57).

Application of subss. (4) and (5)

(3) Subsections (4) and (5) apply to the following offences:

1. An offence under subsection 186 (1) of,
 - i. contravening section 14 or 15,
 - ii. contravening section 27, 40, 41 or 47.3 in respect of hauled liquid industrial waste or hazardous waste as designated in the regulations relating to Part V,
 - iii. contravening section 92 or 184, or
 - iv. contravening a provision of the regulations that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.
2. An offence under subsection 186 (2) of failing to comply with an order under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.
3. An offence under subsection 186 (3) of failing to comply with a term or condition of an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act, or a report under section 29, that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.
4. An offence under subsection 194 (2) that relates to a contravention or failure to comply referred to in paragraph 1, 2 or 3. 2005, c. 12, s. 1 (57); 2009, c. 12, Sched. G, s. 24; 2010, c. 16, Sched. 7, s. 2 (85).

Certain offences: corporations

(4) Every corporation convicted of an offence described in subsection (3) is liable, for each day or part of a day on which the offence occurs or continues, to a fine of,

- (a) not less than \$25,000 and not more than \$6,000,000 on a first conviction;
- (b) not less than \$50,000 and not more than \$10,000,000 on a second conviction; and
- (c) not less than \$100,000 and not more than \$10,000,000 on each subsequent

conviction. 2005, c. 12, s. 1 (57).

Certain offences: individuals

- (5) Every individual convicted of an offence described in subsection (3) is liable,
- (a) for each day or part of a day on which the offence occurs or continues, to a fine of,
 - (i) not less than \$5,000 and not more than \$4,000,000 on a first conviction,
 - (ii) not less than \$10,000 and not more than \$6,000,000 on a second conviction, and
 - (iii) not less than \$20,000 and not more than \$6,000,000 on each subsequent conviction;
 - (b) to imprisonment for a term of not more than five years less one day; or
 - (c) to both such fine and imprisonment. 2005, c. 12, s. 1 (57).

Number of convictions

188. In determining the number of a person's previous convictions for the purpose of section 187, the court shall include previous convictions of the person under,

- (a) this Act, other than for an offence related to Part IX;
 - (a.1) the *Nutrient Management Act, 2002*;
 - (b) the *Ontario Water Resources Act*;
 - (c) the *Pesticides Act*;
 - (d) the *Safe Drinking Water Act, 2002*; or
 - (e) the *Toxics Reduction Act, 2009*. 1998, c. 35, s. 38; 2002, c. 4, s. 62 (6); 2005, c. 12, s. 1 (58); 2009, c. 19, s. 67 (11).

Sentencing considerations

188.1 (1) Subject to subsection (3), in determining a penalty under section 187, the court shall consider each of the following circumstances to be aggravating factors:

1. The offence caused an adverse effect.
2. The defendant committed the offence intentionally or recklessly.
3. In committing the offence, the defendant was motivated by a desire to increase revenue or decrease costs.
4. The defendant committed the offence despite having been warned by the Ministry of circumstances that subsequently became the subject of the offence.
5. After the commission of the offence, the defendant,
 - i. attempted to conceal the commission of the offence from the Ministry or other public authorities,
 - ii. failed to co-operate with the Ministry or other public authorities,
 - iii. failed to take prompt action to mitigate the effects of the offence, including action to compensate persons for loss or damage that resulted from the commission of the offence, or
 - iv. failed to take prompt action to reduce the risk of similar offences being committed in the future.

6. The defendant previously contravened legislation of Ontario or another jurisdiction that is intended to prevent or minimize harm to the natural environment.
7. Any other circumstance that is prescribed by the regulations as an aggravating factor. 2005, c. 12, s. 1 (59).

Severity of penalty

(2) Subject to subsection (3), the severity of a penalty under section 187 shall reflect the number of aggravating factors that apply under subsection (1) and the seriousness of the particular circumstances of each of those aggravating factors. 2005, c. 12, s. 1 (59).

Reasons

(3) If the court decides that an aggravating factor that applies under subsection (1) does not warrant a more severe penalty, the court shall give reasons for that decision. 2005, c. 12, s. 1 (59).

Compliance with order not a mitigating factor

(4) Subject to subsection (5), in determining a penalty under section 187, the court shall not consider compliance with an order issued under this Act in response to the offence to be a mitigating factor. 2005, c. 12, s. 1 (59).

Reasons

(5) If the court decides that compliance with an order issued under this Act in response to the offence warrants a less severe penalty, the court shall give reasons for that decision. 2005, c. 12, s. 1 (59).

Environmental penalty

(6) If an order is made requiring a person to pay an environmental penalty in respect of a contravention and the person is also convicted of an offence in respect of the same contravention, the court, in determining a penalty under section 187, shall consider the order to pay the environmental penalty to be a mitigating factor and, if subsection 187 (4) or (5) applies, may impose a fine of less than the minimum fine provided for in that subsection. 2005, c. 12, s. 1 (59).

Penalty re monetary benefit

189. The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided. R.S.O. 1990, c. E.19, s. 189.

Order to prevent damage, etc.

190. (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person,

- (a) to take such action, including but not limited to providing a temporary or permanent alternate water supply, as the court directs within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is in any way connected to the commission of the offence;
- (b) where the offence is in relation to a waste management system or waste disposal site, to take such action as is required to bring the system or site into conformity with Part V or the regulations within the time specified in the order; and

- (c) to comply with any order issued under this Act to the person in relation to damage that results from or is in any way connected to the commission of the offence. 1998, c. 35, s. 39 (1); 2005, c. 12, s. 1 (60, 61).

Other conditions

(2) An order under subsection (1) may contain such other conditions relating to the circumstances of the offence and of the person that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation. R.S.O. 1990, c. E.19, s. 190 (2); 2006, c. 19, Sched. K, s. 2 (10).

Variation of order

(3) The court that made an order under subsection (1) may make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances,

- (a) on its own initiative at any time; or
- (b) on application by counsel for the prosecutor, by the person convicted or by the person authorized under the *Law Society Act* to represent the person convicted, with notice to the other party, after a hearing or, with the consent of the parties, without a hearing. 2006, c. 21, Sched. C, s. 108 (2).

Conflict

(4) Nothing in subsection (1) authorizes the making of an order that conflicts with an order previously made under this Act by the Minister or the Director, but an order may be made under subsection (1) supplementing the provisions of an order in respect of the prevention, decrease or elimination of harm to the natural environment and the restoration of the natural environment. R.S.O. 1990, c. E.19, s. 190 (4).

(5) Repealed: 1998, c. 35, s. 39 (2).

Continuation in force

(6) Where a person bound by an order under subsection (1) is imprisoned, the order continues in force except in so far as the imprisonment renders it impossible for the person to comply for the time being with the order. R.S.O. 1990, c. E.19, s. 190 (6).

Restitution orders

190.1 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may make an order for restitution against the person convicted of the offence, requiring the person to pay another person for reasonable expenses actually incurred by the other person on account of damage to property in which the other person has an interest that results from or is in any way connected to the commission of the offence, in such amount and on such terms and conditions as the court considers just. 1998, c. 35, s. 40.

Expenses incurred, interpretation

(2) For the purposes of subsection (1), expenses are incurred on account of damage to property if they are incurred,

- (a) to prevent, eliminate or ameliorate the damage;
- (b) to replace the property that suffered the damage; or
- (c) to restore the property to the state that it was in before the damage. 1998, c. 35, s. 40.

Same

(3) For greater certainty, for the purposes of clause (2) (a), expenses incurred to provide a temporary or permanent alternate water supply may be expenses incurred to prevent, eliminate or ameliorate damage. 1998, c. 35, s. 40; 2005, c. 12, s. 1 (62).

Amount of order

(4) The amount of the order for restitution shall not exceed the replacement value of the property as of the date the order is issued. 1998, c. 35, s. 40.

No restitution to person who committed offence

(5) The court shall not make an order for restitution in favour of any person on account of damage that is the result of,

- (a) the commission of an offence by the person; or
- (b) a contravention in respect of which an order has been served on the person requiring the person to pay an environmental penalty, unless the order has been revoked. 1998, c. 35, s. 40; 2005, c. 12, s. 1 (63).

Notification of order

(6) Where a court makes an order for restitution, it shall cause a copy of the order or a notice of the content of the order to be given to the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 40.

Filing of order in court

(7) An order for restitution may be filed with a local registrar of the Superior Court of Justice and the responsibility for filing shall be on the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 40; 2001, c. 9, Sched. G, s. 5 (21).

Enforcement of order

(8) An order for restitution filed under subsection (7) may be enforced as if it were an order of the court. 1998, c. 35, s. 40.

Same

(9) Section 129 of the *Courts of Justice Act* applies in respect of an order for restitution filed under subsection (7) and, for the purpose, the date of filing shall be deemed to be the date of the order. 1998, c. 35, s. 40.

Civil remedy

(10) A civil remedy for an act or omission is not affected by reason only that an order for restitution under this section has been made in respect of that act or omission. 1998, c. 35, s. 40.

Forfeiture on conviction

190.2 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may, if conviction is in relation to an offence in connection with which a thing has been seized under section 160 or 161 or under a warrant issued under the *Provincial Offences Act*, order that the thing be forfeited to the Crown. 1998, c. 35, s. 40.

Same

(2) The court shall not make an order under subsection (1) unless the court is satisfied that,

- (a) the seizure of the thing was lawful; and

- (b) no later than seven days before the hearing of the request, written notice was provided by a provincial officer,
- (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
 - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,
 - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
 - (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 40.

Contents of notice

- (3) Notice under subsection (2) shall include,
- (a) a description of the thing seized sufficient to enable it to be identified;
 - (b) the location at which the thing was seized;
 - (c) the date of the seizure;
 - (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
 - (e) a statement of the reason for the seizure;
 - (f) a reference to the statutory provision authorizing the seizure;
 - (g) a statement that an order for forfeiture of the thing is being sought under this section; and
 - (h) a statement that the person to whom the notice is provided may make submissions to the court with respect to the issuance of an order under this section. 1998, c. 35, s. 40.

Disposition of things forfeited

- (4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 40.

Relief against forfeiture

(5) A person who had an interest in a thing forfeited under this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 40; 2001, c. 9, Sched. G, s. 5 (21).

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with an order requiring the person to pay an environmental penalty in connection with a matter that was associated with the seizure of the thing, unless the order has been revoked; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 40; 2005, c. 12, s. 1 (64).

Where fine not paid

190.3 (1) Where a person is convicted of an offence under this Act and a fine is imposed,

- (a) a thing seized in connection with the offence and not forfeited to the Crown under section 162.1, 162.3 or 190.2 shall not be returned until the fine has been paid; and
- (b) if payment of the fine is in default within the meaning of section 69 of the *Provincial Offences Act*, a justice may order that the thing be forfeited to the Crown.

Application of subss. 190.2 (2) to (6)

(2) Subsections 190.2 (2) to (6) apply with necessary modifications in relation to an order under clause (1) (b). 1998, c. 35, s. 40.

Costs of seizure, etc.

190.4 If a person is convicted of an offence under this Act, the justice may, in addition to any other penalty, order the person to pay all or part of the expenses incurred by the Ministry with respect to the seizure, storage or disposition of any thing seized in connection with the offence. 1998, c. 35, s. 40.

Suspension of default in payment of fine

191. (1) Where a person is in default of payment of a fine imposed upon conviction for an offence against this Act, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002*, the *Toxics Reduction Act, 2009* or the regulations made under any of them, on the application of the Director, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that, until the fine is paid,

- (a) one or more of the person's licences be suspended;
- (b) no licence be issued to the person, or
- (c) the person's registration under Part II.2 be suspended. 2010, c. 16, Sched. 7, s. 2 (86).

Duty of Director

(2) The Director shall,

- (a) on being informed of an outstanding order referred to in subsection (1), suspend the person's licence or registration, if it is not already suspended under another order referred to in subsection (1); and
- (b) on being informed that the fine and any applicable administrative fee for the

reinstatement of the licence or registration are paid, reinstate the licence or registration, unless the Director has been informed that,

- (i) there is another outstanding order referred to in subsection (1) directing that the licence or registration be suspended, or
- (ii) the licence or registration is suspended under any other order or under another statute. 2010, c. 16, Sched. 7, s. 2 (87).

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section. R.S.O. 1990, c. E.19, s. 191 (3).

Definition

(4) In this section,

“licence” means an environmental compliance approval or a licence issued under this Act. 1998, c. 35, s. 41; 2010, c. 16, Sched. 7, s. 2 (88).

Act of officer, etc.

192. For the purposes of this Act and the regulations, an act or thing done or omitted to be done by an officer, official, employee or agent of a corporation in the course of his or her employment or in the exercise of his or her powers or the performance of his or her duties shall be deemed to be also an act or thing done or omitted to be done by the corporation. R.S.O. 1990, c. E.19, s. 192.

193. Repealed: 1998, c. 35, s. 42.

Duty of director or officer

194. (1) Every director or officer of a corporation has a duty to take all reasonable care to prevent the corporation from,

- (a) discharging or causing or permitting the discharge of a contaminant, in contravention of,
 - (i) this Act or the regulations, or
 - (ii) an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act;
- (b) failing to notify the Ministry of a discharge of a contaminant, in contravention of,
 - (i) this Act or the regulations, or
 - (ii) an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act;
- (c) contravening section 27, 40, 41 or 47.3 in respect of hauled liquid industrial waste or hazardous waste as designated in the regulations relating to Part V;
- (d) contravening section 93 or 184;
- (e) failing to install, maintain, operate, replace or alter any equipment or other thing, in contravention of an environmental compliance approval, certificate of property use, renewable energy approval, licence or permit under this Act; or
- (f) contravening an order under this Act, other than an order under section 99.1, 100.1, 150 or 182.1. 2005, c. 12, s. 1 (65); 2009, c. 12, Sched. G, s. 25; 2010, c. 16,

Sched. 7, s. 2 (89-91).

Contraventions of s. 14

(1.1) Clause (1) (a) does not apply to a contravention of section 14 unless the contravention causes or is likely to cause an adverse effect. 2005, c. 12, s. 1 (65).

Offence

(2) Every person who has a duty under subsection (1) and who fails to carry out that duty is guilty of an offence. R.S.O. 1990, c. E.19, s. 194 (2).

Onus

(2.1) If a director or officer of a corporation is charged with an offence under subsection (2) in connection with a specific contravention of the corporation, the director or officer has the onus, in the trial of the offence, of proving that he or she carried out the duty under subsection (1) in connection with that contravention. 2005, c. 12, s. 1 (66).

Liability to conviction

(3) A director or officer of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted or convicted. R.S.O. 1990, c. E.19, s. 194 (3).

Limitation on proceedings

195. (1) Proceedings for an offence under this Act or the regulations shall not be commenced later than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 5.

Idem

(2) Clause (1) (b) does not apply in respect of offences committed before the 28th day of June, 1988. R.S.O. 1990, c. E.19, s. 195.

Orders, consequential authority

196. (1) The authority to make an order under this Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.

Same, authority to order access

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing.

Application

(3) Subsection (1) applies in respect of every order made under this Act whether or not the order was made before the 1st day of January, 1984. R.S.O. 1990, c. E.19, s. 196.

Administrative changes to environmental compliance approval, etc.

196.1 The Director may revoke an environmental compliance approval, alter the terms and conditions of an environmental compliance approval or make an order revoking or amending a program approval or order issued by the Director under this Act if the Director is satisfied that the revocation, alteration or amendment is in the public interest and is desirable for administrative reasons to,

(a) reflect changes that have occurred with respect to the identity or description of any person or place; or

(b) eliminate provisions that are spent or obsolete. 2010, c. 16, Sched. 7, s. 2 (92).

Disclosure of orders and decisions

197. (1) A person who has authority under this Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing. 2001, c. 17, s. 2 (50).

Registration of requirement

(2) A certificate setting out a requirement imposed under subsection (1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection (1) and is accompanied by a registrable description of the property. 2001, c. 17, s. 2 (50).

Same

(3) A requirement imposed under subsection (1) that is set out in a certificate registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property. 2001, c. 17, s. 2 (50).

Dealings voidable

(4) A dealing with real property by a person who is subject to a requirement imposed under subsection (1) or (3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement. 2001, c. 17, s. 2 (50).

Registration of withdrawal of requirement

(5) A certificate of withdrawal of a requirement imposed under subsection (1) or (3) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection (1) and is accompanied by a registrable description of the property. 2001, c. 17, s. 2 (50).

Same

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a requirement in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the requirement and the certificate of withdrawal of the requirement. 2001, c. 17, s. 2 (50).

Same

(7) Registration of a certificate of withdrawal of a requirement in accordance with subsection (5) has the effect of revoking the requirement. 2001, c. 17, s. 2 (50).

Transition

(8) This section, as it read immediately before the day subsection 2 (50) of the *Brownfields Statute Law Amendment Act, 2001* came into force, continues to apply in respect of prohibitions issued under this section before that day. 2001, c. 17, s. 2 (50).

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