PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

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CHAPTER E-9

ENVIRONMENTAL PROTECTION ACT

INTERPRETATION

1. In this Act — Definitions

(a) repealed by 2008,c.13,s.1; — agricultural crop

(a.1) repealed by 2008,c.13,s.1; — animal unit

(a.2) repealed by 2001,c.34,s.1; — basal area

(a.3) "beach" includes that portion of the shoreline land commencing at — beach

(i) the base of the bank or slope where the terrestrial land meets the shoreline, or

(ii) the seaward extremity of a sand dune,

as may be relevant in the circumstances and extending seaward a distance of three miles, and containing water, sand, gravel, rock, shale or other earthen material;

(a.4) "broadcast" means to cast, spread, spray, or scatter seed, pesticides, or other material over an area greater than 2 square metres per application; — broadcast

(a.5) repealed by 2002,c.5,s.1; — buffer zone

(a.6) repealed by 2008,c.13,s.1; — cereal crop

(a.7) repealed by 2008,c.13,s.1; — clear-cut

(b) "contaminant" includes any solid, liquid, gas, waste, odour, vibration, radiation, sound, or a combination of them — contaminant

(i) which is foreign to or in excess of the natural constituents of the environment into which it is being introduced,

(ii) which will or may adversely affect, either directly or indirectly, the natural, physical, chemical, or biological quality of the environment,

(iii) which is or may be injurious to the health or safety of a person or be damaging to property or to plant or animal life,

(iv) which interferes with or is likely to interfere with the comfort, well-being, livelihood, or enjoyment of life of a person, or

(v) which is declared by regulation to be a contaminant;

contaminated site

(b.1) "contaminated site" means an area of the environment designated as a contaminated site by the Minister under subsection 21.1(3);

contaminated sites registry

(b.2) "contaminated sites registry" means the contaminated sites registry established under subsection 21.1(1);

Department

(c) "Department" means the Department of Communities, Land and Environment;

designated material

(c.1) "designated material" means a material or product that
(i) is prescribed as a designated material in the regulations, or
(ii) meets the criteria for a designated material as set out in the regulations;

discharge

(d) "discharge" includes any drainage, deposit, release, spill, leak or emission;

Division

(e) repealed by 1989(2nd),c.1,s.2;

environment

(f) "environment" includes
(i) air, land and water,
(ii) plant and animal, including human, life,
and any feature, part, component, resource or element thereof;

environment officer

(g) "environment officer" means a government employee so designated or appointed by the Minister;

environmental health

(h) "environmental health" means those aspects of human health that are or can be affected by contaminants or changes in the environment;

excavation pit

(i) "excavation pit" means any excavation in the ground opened for the purpose of searching for or removing clay, gravel, sand, shale, subsoil, topsoil, rock or any other surface or subterranean deposit, but does not include an excavation made within the boundaries of a highway;

farm field

(i.01) repealed by 2008,c.13,s.1;

forage crop

(i.1) repealed by 2002,c.5,s.1;

forested riparian zone

(i.2) repealed by 2008,c.13,s.1;

frost seeding

(i.3) repealed by 2008,c.13,s.1;

headland

(i.03) repealed by 2002,c.5,s.1;

heavy equipment

(i.4) repealed by 2008,c.13,s.1;

intensive livestock operation

(i.5) repealed by 2008,c.13,s.1;

landlocked pond

(i.6) repealed by 2008,c.13,s.1;

(j) "litter" as a verb, means to discard trash, garbage, rubbish or any other objects, and, as a noun, means trash, garbage or other objects so discarded; litter

(j.1) "livestock" includes, but is not limited to, animals commonly referred to as cows, cattle, swine, horses, sheep, goats and poultry; livestock

(k) "Minister" means the Minister of Communities, Land and Environment; Minister

(l) "motor vehicle" means a vehicle that is powered, drawn, propelled or driven by any means other than muscular power; motor vehicle

(m) "municipality" has the same meaning as in the *Municipalities Act* R.S.P.E.I. 1988, Cap. M-13 but includes the City of Charlottetown and the City of Summerside; municipality

(n) repealed by 1991,c.10,s.1; person

(n.1) repealed by 2008,c.13,s.1; perimeter coastline

(n.11) "recyclable material" means a material or product that recyclable material
(i) is prescribed as a recyclable material in the regulations, or
(ii) meets the criteria for a recyclable material as set out in the regulations;

(n.12) "recycling" means the practice of accepting, collecting, storing, sorting, handling, and preparing for transport or transporting, recyclable material for the purpose of the use or incorporation of the material in the manufacture of secondary products, and includes recycling
(i) compacting,
(ii) bundling,
(iii) baling,
(iv) shredding, and
(v) crushing;

(n.13) "recycling facility" means a facility or place where recyclable material is recycling facility
(i) accepted and stored, and
(ii) handled, collected, sorted or prepared for transport,
for the purpose of the use, reuse or incorporation of the material in the manufacture of secondary products;

(n.2) repealed by 2008,c.13,s.1; row crop

(o) "sand dune" means a wind or wave-deposited formation of vegetated or drifting wind-blown sand that lies generally parallel to and landward of the beach and between the upland limit of the beach and the foot of the most inland dune slope; sand dune

selection harvest

(o.1) repealed by 2008,c.13,s.1;

source of contaminant

(o.2) "source of contaminant" means anything that discharges a contaminant into the environment;

under seeded cereal crop

(o.3) repealed by 2008,c.13,s.1;

undertaking

(p) "undertaking" includes any construction, industry, operation or other project or any alteration or modification of any existing undertaking which will or may

(i) cause the emission or discharge of any contaminant into the environment,

(ii) have an effect on any unique, rare or endangered feature of the environment,

(iii) have a significant effect on the environment or necessitate further development which is likely to have a significant effect on the environment, or

(iv) cause public concern because of its real or perceived effect or potential effect on the environment,

but excludes all undertakings mentioned in sections 10, 12 and 13;

waste

(p.1) "waste" includes materials discarded by persons in the course of their daily activities at home or at commercial businesses, industries and institutions or other related activities;

waste management

(p.2) "waste management" means a system or process for the collection, transportation, separation, treatment or disposal of waste and includes disposal sites and landfill sites;

waste treatment system

(q) "waste treatment system" means any plant or installation used, or intended to be used to treat a contaminant prior to disposal on land, or into air or water and includes a sewerage system;

water

(r) "water" includes liquid and frozen surface and ground water;

watercourse

(s) "watercourse" means an area which has a sediment bed and may or may not contain water, and without limiting the generality of the foregoing, includes the full length and width of the sediment bed, bank and shore of any stream, spring, creek, brook, river, lake, pond, bay, estuary or coastal body, any water therein, and any part thereof, up to and including the watercourse boundary;

watercourse boundary

(s.1) repealed by 2001,c.34,s.1;

water supply system

(t) "water supply system" means a water works for the collection, treatment, purification, storage, supply or distribution of water to

(i) five or more households, or

(ii) a public building or place of assembly;

well

(u) "well" means an artificial opening in the ground

(i) from which water is obtained, or
(ii) made for the purpose of exploring for or obtaining water;

well-head protection area

(u.1) "well-head protection area" means the surface and sub-surface area surrounding a well, supplying any water supply system, through which contaminants may or are reasonably likely to move toward and reach such well;

wetland

(v) "wetland" means
(i) an area which contains hydric soil, aquatic or water-tolerant vegetation, and may or may not contain water, and includes any water therein and everything up to and including the wetland boundary, and
(ii) without limiting the generality of the foregoing, includes any area identified in the Prince Edward Island Wetland Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, a shrub swamp, a wooded swamp, a bog or a meadow;

wetland boundary

(w) repealed by 2008,c.13,s.1. 1988,c.19,s.1; 1989(2nd),c.1,s.2; 1991,c.10,s.1; 1992,c.21,s.1; 1993,c.29,s.4; 1997,c.20,s.3; 1999,c.24,s.1; 2000,c.5,s.3; 2001,c.34,s.1; 2002,c.5,s.1; 2004,c.36,s.3; 2004,c.30,s.1; 2008,c.13,s.1; 2009,c.69,s.1; 2012,c.17,s.2; 2015,c.28,s.3.

PURPOSE

Purpose

2. The purpose of this Act is to manage, protect and enhance the environment. 1988,c.19,s.2.

ADMINISTRATION

Powers of Minister

3. (1) The Minister may take such action as he considers necessary in order to manage, protect or enhance the environment or manage, protect or enhance environmental health including
(a) investigating and inquiring into any activity or situation that causes, appears to be the cause of, or may cause, contamination of the environment;
(b) coordinating the work and efforts of public departments, boards, commissions, agencies and interest groups in the province respecting management of the environment;
(c) preparing and publishing policies, strategies, objectives and standards;
(d) planning, designing, constructing, operating and maintaining works and undertakings;
(e) exercising exclusive control over

(i) the quality, use, protection or alteration of all surface, ground and shore waters and all beaches, sand dunes, and wetlands within the jurisdiction of the province,

(ii) the allocation of the use of water,

(iii) preservation of the environment within the jurisdiction of the province;

(f) entering into agreements;

(g) delegating any of his functions under this Act or the regulations;

(h) performing such other functions as may be assigned to him by the Lieutenant Governor in Council.

Environmental awareness program

(2) For the purpose of increasing environmental awareness in the province, the Minister may support and encourage the development of educational programs respecting environmental management. 1988,c.19,s.3; 1992,c.21,s.2; 2012(2nd),c.8,s.1.

Council

4. (1) The Lieutenant Governor in Council may appoint an Environmental Advisory Council.

Functions

(2) The Council shall

(a) serve as an advisory board to the Minister; and

(b) perform such functions as may be prescribed by regulations.

Composition

(3) The Council shall consist of not less than ten and not more than fifteen members appearing to the Minister to be representative of the public, including representation of the interests of agriculture, tourism, fisheries, environmental groups, conservation groups and industry and one member nominated by the Federation of Prince Edward Island Municipalities.

Powers of Cabinet

(4) The Lieutenant Governor in Council

(a) shall designate a chairman and vice-chairman of the Council from the membership thereof;

(b) may authorize payment of a daily allowance and expenses to members of the Council; and

(c) may appoint local advisory boards for specified areas, or designate an existing board, commission, or other body as a local advisory board.

Term of office

(5) Members of the Council shall be appointed for such term as the Lieutenant Governor in Council may determine in the case of each member and, subject to subsection (6), are eligible for reappointment.

Reappointment

(6) A person who has served two consecutive terms as a member of the Council is not, during the twelve months following the completion of his second term, eligible for reappointment to the Council.

(7) Where a member dies, retires or is removed from office, the Lieutenant Governor in Council may appoint a person to serve the unexpired term of that member. Vacancies

(8) The Council shall submit annual reports to the Minister on matters dealt with by the Council including Annual reports

(a) submissions received by the Council;
(b) investigations conducted by the Council;
(c) reports made by the Council; and
(d) recommendations of the Council.

(9) Upon receiving an annual report from the Council, the Minister shall lay the report before the next ensuing session of the Legislature. Tabling report

(10) The Council may, with the approval of the Minister, engage the services of persons having special technical or other knowledge in connection with any public hearing, investigation or study under this Act. 1988,c.19,s.4; 1992,c.21,s.3; 2015,c.27,s.1; 2015,c.36,s.25(2). Specialist services

5. Repealed by 2008,c.13,s.2. 1988,c.19,s.5; 2008,c.13,s.2. Environmental Coordinating Committee

6. (1) Repealed by 1989(2nd),c.1,s.2. Environmental Management Division

(2) Repealed by 1991,c.10,s.2. Functions

(3) The Minister may designate persons, by notice published in the Gazette, as environment officers. Environment officers

(4) The function of an environment officer is to enforce and administer such requirements of this Act and the regulations as the Minister may authorize. Function

(5) The following persons are environment officers by virtue of their office: Environment officers

(a) any officer or member of the Royal Canadian Mounted Police;
(b) a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1;
(c) a fisheries officer appointed under the *Fisheries Act* (Canada) R.S.C. 1985, c. F-14.

(6) A copy of an identification card purporting to be signed by the Minister is *prima facie* proof that the individual named therein is an environment officer. 1988,c.19,s.6; 1989(2nd),c.1,s.2; 1991,c.10,s.2; 2008,c.13,s.3; 2012(2nd),c.8,s.2. Identification

Application

7. (1) This section applies to natural persons.

Orders

(2) Where the Minister or an environment officer believes, on reasonable and probable grounds,

(a) that a contaminant has been, is being, or is going to be, discharged into the environment, or, otherwise, that an act or omission of a natural person is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; and

(b) that it is necessary or advisable for the protection of the environment or the prevention or control of danger to human life or health or of damage to property,

the Minister or the environment officer, as the case may be, may issue an environmental protection order to

(c) the natural person who is the owner or previous owner of the contaminant or the source of the contaminant;

(d) the natural person who is or was in occupation of the contaminant or the source of the contaminant;

(e) the natural person who has, or had, the charge, management, or control of the contaminant or the source of the contaminant;

(f) the natural person whose act or omission is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; or

(g) one or more of the above persons.

Terms, conditions and requirements

(3) An environmental protection order issued pursuant to subsection (2) may specify terms and conditions, including time limits, and may require the natural person to whom it is directed, at his own cost, if any, to

(a) meet with a representative of the Department and other persons for such purposes as may be required by the environmental protection order;

(a.1) permit inspection;

(b) permit testing and sampling;

(c) carry out inspections, testing, and sampling, including professional hydro-geological or engineering investigations, to determine the extent and effects of the contaminant;

(d) cease an activity specified in the environmental protection order either permanently or for a period of time, as specified in the environmental protection order;

(e) clean, repair, and restore the area affected by the contaminant to the extent indicated in the environmental protection order or, otherwise, to the satisfaction of the Minister;

(f) take specified action to prevent or avoid danger to human life or health or damage to property or to protect the environment;

(g) submit a written report with respect to his activities pursuant to clauses (c), (e) and (f); or

(h) do any or all of those things specified in clauses (a) to (g) either forthwith or as of the future date specified in the environmental protection order.

Powers of environment officers

(4) For the purpose of investigating threats to the environment, or for managing, protecting or enhancing environmental health, or otherwise ensuring compliance with this Act or the regulations, an environment officer, or a peace officer may

(a) subject to subsections (5), (6) and (7), at any reasonable time, enter and inspect any place in which he believes on reasonable grounds there is a contaminant or any other thing in respect of which this Act or the regulations apply;

(b) examine any contaminant or suspected contaminant, or any other thing in respect of which this Act or the regulations apply and take samples of it;

(c) require any natural person to produce for inspection or copying, in whole or in part, any record or other document that the environment officer or peace officer believes on reasonable grounds contains any information relevant to the administration of this Act or the regulations;

(d) conduct any tests or analyses or take any measurements; and

(e) provide the results of any tests, analyses, or measurements to the Minister of the Crown that has the responsibility for the protection of public and environmental health.

Entry to dwelling-place

(5) An environment officer or a peace officer may not enter a dwelling-place except with the consent of the occupant of the dwelling-place or under the authority of a warrant.

Authority to issue warrant

(6) Where on *ex parte* application a justice is satisfied by information on oath that

(a) the conditions for entry described in subsection (4) exist in relation to a dwelling-place;

(b) entry to the dwelling-place is necessary for any purpose relating to the administration of this Act or the regulations; and

(c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the environment or peace officer named in the warrant to enter the dwelling-place, subject to any conditions that may be specified in the warrant.

Use of force

(7) An environment officer who executes a warrant shall not use force unless he is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

Seizure

(8) Where an environment officer or a peace officer believes on reasonable grounds that an offence under this Act or the regulations has been committed, he may seize and detain any thing

(a) by means of or in relation to which he believes on reasonable grounds the offence was committed; or

(b) that he believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act or the regulations.

Warrant

(9) Where on *ex parte* application a justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place any thing

(a) by means of or in relation to which an offence under this Act or the regulations has been committed or is suspected of having been committed; or

(b) that there are reasonable grounds to believe will afford evidence in respect of the commission of an offence under this Act or the regulations,

the justice may at any time sign and issue a warrant authorizing the environment officer or peace officer named in the warrant to enter and search the place for the thing and, subject to any conditions that may be specified in the warrant, to seize and detain it.

Things liable to seizure

(10) The environment officer or peace officer who executes a warrant may exercise the powers described in subsection (4) and may seize and detain, in addition to any thing mentioned in the warrant, any other thing

(a) by means of or in relation to which the inspector believes on reasonable grounds an offence under this Act or regulations has been committed; or

(b) that the inspector believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act.

Execution of warrant

(11) A warrant shall be executed by day unless the justice authorizes its execution by night.

Where warrant not necessary

(12) A peace officer or an environment officer may exercise any of the powers referred to in subsections (9) and (10) without a warrant if the conditions for obtaining a warrant exist, but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

Notice of reason for seizure

(13) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations shall, as soon as is practicable, advise the owner of the thing or the natural person having possession, care, or control of it at the time of its seizure, of the reason for the seizure.

(14) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations or any person designated by such officer, may

Storage, removal etc.

(a) store, treat, or dispose of the thing at the place where it was seized or move it to any other place for storage, treatment, or disposition; or

(b) recommend to the Minister that an environmental protection order be issued pursuant to subsection (2) directing the natural person who owns or had the possession, care, or control of it at the time of its seizure, to store, treat, or dispose of it or move it to any other place and store, treat, or dispose of it, in which case the Minister may make such an environmental protection order.

(15) Subject to subsection (16), a thing that is seized and detained under this Act shall not be detained after

Detention

(a) a determination by a peace officer or an environment officer that the thing or use of it is in conformity with the Act or regulations or will not afford evidence in respect of a commission of an offence under this Act or the regulations; or

(b) the expiration of one hundred and eighty days after the day of seizure,

unless before that time proceedings are instituted in relation to the thing, in which case the thing may be detained until the proceedings are finally concluded.

(16) Where the Minister believes on reasonable and probable grounds that a thing is a threat to the environment or environmental health, or where proceedings mentioned in subsection (15) are instituted within the time provided in that subsection, and at the final conclusion thereat the court orders the forfeiture of the thing that was seized and detained, the Minister may dispose of the thing as he sees fit.

Disposal of forfeited things

(17) Where subsection (16) does not apply, the thing shall be returned to the natural person who owns the thing or who had the possession, care or control of it at the time of its seizure.

Return of things seized where no forfeiture ordered

(18) A sample taken under this Act or regulations may be disposed of in such manner as the Minister considers appropriate.

Samples, disposition of

(19) The Crown, nor any agent or employee thereof is not liable for any costs, loss or damage, resulting from the exercise in good faith of powers pursuant to this Act or the regulations.

Liability

(20) An environmental protection order issued pursuant to subsection (2) shall run with the land and shall be binding upon the successor or assignee of the natural person to whom it is directed.

Order to bind successors in title

Copies of order on request

(21) Upon the written request of any person as to whether an environmental protection order has been issued against a particular person, the Minister shall provide the information and if an environmental protection order has been issued, make a copy available. 1991,c.10,s.3; 1995,c.11,s.1; 2005,c.32,s.1; 2006,c.5,s.1; 2008,c.13,s.4; 2012(2nd),c.8,s.3; 2015,c.36,s.25(3).

Application

7.1 (1) This section applies to corporations.

Orders

(2) Where the Minister or an environment officer believes, on reasonable and probable grounds,

(a) that a contaminant has been, is being, or is going to be, discharged into the environment, or, otherwise, that an act or omission of a corporation is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; and

(b) that it is necessary or advisable for the protection of the environment or the prevention or control of danger to human life or health or of damage to property,

the Minister or the environment officer, as the case may be, may issue an environmental protection order to

(c) the corporation which is the owner or previous owner of the contaminant or the source of the contaminant;

(d) the corporation which is or was in occupation of the contaminant or the source of the contaminant;

(e) the corporation which has, or had, the charge, management, or control of the contaminant or the source of the contaminant;

(f) the corporation whose act or omission is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; or

(g) one or more of the above persons.

Terms, conditions and requirements

(3) An environmental protection order issued pursuant to subsection (2) may specify terms and conditions, including time limits, and may require the corporation to whom it is directed, at its own cost, if any, to

(a) meet with a representative of the Department and other persons for such purposes as may be required by the environmental protection order;

(a.1) permit inspection;

(b) permit testing and sampling;

(c) carry out inspections, testing, and sampling, including professional hydro-geological or engineering investigations, to determine the extent and effects of the contaminant;

(d) cease an activity specified in the environmental protection order permanently or for the period of time specified in the environmental protection order;

(e) clean, repair, and restore the area affected by the contaminant to the extent indicated in the environmental protection order or, otherwise, to the satisfaction of the Minister;

(f) take specified action to prevent or avoid danger to human life or health or damage to property or to protect the environment;

(g) submit a written report with respect to its activities pursuant to clauses (c), (e) and (f); or

(h) do any or all of those things specified in clauses (a) to (g) forthwith or as of the future date specified in the environmental protection order.

Powers of environment officers

(4) For the purpose of investigating threats to the environment, or for managing, protecting or enhancing environmental health, or otherwise ensuring compliance with this Act or the regulations, an environment officer, or a peace officer may,

(a) subject to subsections (5), (6) and (7), at any reasonable time, enter and inspect any place in which he believes on reasonable grounds there is a contaminant or any other thing in respect of which this Act or the regulations apply;

(b) examine any contaminant or suspected contaminant, or any other thing in respect of which this Act or the regulations apply and take samples of it;

(c) require any corporation to produce for inspection or copying, in whole or in part, any record or other document that the environment officer or peace officer believes on reasonable grounds contains any information relevant to the administration of this Act or the regulations;

(d) conduct any tests or analyses or take any measurements; and

(e) provide the results of any tests, analyses, or measurements to the Minister of the Crown that has the responsibility for the protection of public and environmental health.

Entry to dwelling-place

(5) An environment officer or a peace officer may not enter a dwelling-place except with the consent of the occupant of the dwelling-place or under the authority of a warrant.

Authority to issue warrant

(6) Where on *ex parte* application a justice is satisfied by information on oath that

(a) the conditions for entry described in subsection (4) exist in relation to a dwelling-place;

(b) entry to the dwelling-place is necessary for any purpose relating to the administration of this Act or the regulations; and

(c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the environment or peace officer named in the warrant to enter the dwelling-place, subject to any conditions that may be specified in the warrant.

Use of force

(7) An environment officer who executes a warrant shall not use force unless he is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

Seizure

(8) Where an environment officer or a peace officer believes on reasonable grounds that an offence under this Act or the regulations has been committed, he may seize and detain any thing

(a) by means of or in relation to which he believes on reasonable grounds the offence was committed; or

(b) that he believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act or the regulations.

Warrant

(9) Where on *ex parte* application a justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place any thing

(a) by means of or in relation to which an offence under this Act or the regulations has been committed or is suspected of having been committed; or

(b) that there are reasonable grounds to believe will afford evidence in respect of the commission of an offence under this Act or the regulations,

the justice may at any time sign and issue a warrant authorizing the environment officer or peace officer named in the warrant to enter and search the place for the thing and, subject to any conditions that may be specified in the warrant, to seize and detain it.

Things liable to seizure

(10) The environment officer or peace officer who executes a warrant may exercise the powers described in subsection (4) and may seize and detain, in addition to any thing mentioned in the warrant, any other thing

(a) by means of or in relation to which the inspector believes on reasonable grounds an offence under this Act or regulations has been committed; or

(b) that the inspector believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act.

Execution of warrant

(11) A warrant shall be executed by day unless the justice authorizes its execution by night.

(12) A peace officer or an environment officer may exercise any of the powers referred to in subsections (9) and (10) without a warrant if the conditions for obtaining a warrant exist, but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

Where warrant not necessary

(13) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations shall, as soon as is practicable, advise the owner of the thing or the corporation having possession, care, or control of it at the time of its seizure, of the reason for the seizure.

Notice of reason for seizure

(14) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations or any person designated by such officer, may

(a) store, treat, or dispose of the thing at the place where it was seized or move it to any other place for storage, treatment, or disposition; or

(b) recommend to the Minister that an environmental protection order be issued pursuant to subsection (2) directing the corporation which owns or had the possession, care, or control of it at the time of its seizure, to store, treat, or dispose of it or move it to any other place and store, treat, or dispose of it, in which case the Minister may make such an environmental protection order.

Storage, removal etc.

(15) Subject to subsection (16), a thing that is seized and detained under this Act shall not be detained after

(a) a determination by a peace officer or an environment officer that the thing or use of it is in conformity with the Act or regulations or will not afford evidence in respect of a commission of an offence under this Act or the regulations; or

(b) the expiration of one hundred and eighty days after the day of seizure,

unless before that time proceedings are instituted in relation to the thing, in which case the thing may be detained until the proceedings are finally concluded.

Detention

(16) Where the Minister believes on reasonable and probable grounds that a thing is a threat to the environment or environmental health, or where proceedings mentioned in subsection (15) are instituted within the time provided in that subsection, and at the final conclusion thereat the court orders the forfeiture of the thing that was seized and detained, the Minister may dispose of the thing as he sees fit.

Disposal of forfeited things

(17) Where subsection (16) does not apply, the thing shall be returned to the corporation which owns the thing or which had the possession, care or control of it at the time of its seizure.

Return of things seized where no forfeiture ordered

Samples, disposition of

(18) A sample taken under this Act or regulations may be disposed of in such manner as the Minister considers appropriate.

Liability

(19) The Crown, nor any agent or employee thereof is not liable for any costs, loss or damage, resulting from the exercise in good faith of powers pursuant to this Act or the regulations.

Environmental protection order to bind successors in title

(20) An environmental protection order issued pursuant to subsection (2) shall run with the land and shall be binding upon the successor or assignee of the corporation to which it is directed.

Copies of environmental protection order on request

(21) Upon the written request of any person as to whether an environmental protection order has been issued against a particular person or corporation, the Minister shall provide the information and if an environmental protection order has been issued, make a copy available. 1991,c.10,s.3; 1995,c.11,s.2; 2005,c.32,s.2; 2006,c.5,s.2; 2008,c.13,s.5; 2012(2nd),c.8,s.4; 2015,c.36,s.25(3).

Analysis

8. (1) The Minister may, for purposes of this Act or the regulations, designate any person as an analyst, and the person so designated may, with respect to any sample analyzed by him, issue a certificate of analysis.

Certificate

(2) A certificate of an analyst stating that he has analyzed or examined a sample submitted by an environment officer or other person authorized by the Minister and stating the results of his analysis or examination, is admissible in evidence in any legal proceeding or prosecution under this Act or the regulations, without proof of the signature or official character of the person appearing to have signed the certificate of analysis and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate of analysis.

Attendance of analyst in court

(3) The party against whom a certificate of analysis is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for purposes of cross-examination. 1988,c.19,s.8.

ENVIRONMENTAL IMPACT ASSESSMENT

Undertakings

9. (1) No person shall initiate any undertaking unless that person first files a written proposal with the Department and obtains from the Minister written approval to proceed with the proposed undertaking.

Environmental impact information

(2) The Minister, in considering a proposal submitted pursuant to subsection (1), may

(a) require the person submitting it to supply such additional information as the Minister considers necessary;

(b) require that person to carry out an environmental impact assessment and submit an environmental impact statement; and
(c) notify the public of the proposal and provide opportunity for comment.

Form and content

(3) An environmental assessment and environmental impact statement shall have such content as the Minister may direct.

Form of statement

(3.1) An environmental impact statement shall be in such form as the Minister may direct.

Fees

(3.2) A person who is required to submit an environmental impact statement under subsection (2) shall pay such fees as and when may be required by the regulations for the Department's review of the environmental impact statement.

Saving

(4) The approval required by this section is in addition to any other requirement imposed by the province or a municipality. 1988,c.19,s.9; 2004,c.4,s.1; 2015,c.36,s.25(2).

C & D disposal site, defined

9.1 (1) In this section, "C & D disposal site" means a construction and demolition debris disposal site used for the disposal of C & D debris.

Approval may not be issued

(2) On the coming into force of this subsection, no approval may be issued by the Minister pursuant to subsection 9(1) of this Act in respect of a proposal for a C & D disposal site.

Validity of earlier approvals

(3) For greater certainty, subsection (2) shall not be construed to
(a) terminate or otherwise affect the validity of any approval issued before the commencement of that subsection; or
(b) affect the ability of the Minister to issue permits under the regulations in respect of C & D disposal sites for which an approval was issued under section 9 prior to the commencement of that subsection.

Proposals

(4) This section applies to every proposal that was made, and not decided by the Minister, before the date this section comes into force, including any proposal that has been or is subject to court proceedings.

Repeal

(5) This section is repealed.

Commencement

(6) This section, other than subsection (5), comes into force on assent.

Idem

(7) Subsection (5) comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council. 2005,c.33,s.1.

watercourse boundary

10. Repealed by 2008,c.13,s.6. 1988,c.19,s.10; 1991,c.10,s.4; 1992,c.21,s.4; 1999,c.24,s.2; 2001,c.34,s.2; 2002,c.5,s.2; 2006,c.5,s.3; 2008,c.13,s.6.

Advisory Committee

11. Repealed by 2008,c.13,s.6. 1991,c.10,s.5; 2008,c.13,s.6.

Definitions

11.1 Repealed by 2008,c.13,s.6. 1999,c.24,s.3,4.1; 2001,c.34,s.3; 2005,c.32,s.3; 2008,c.13,s.6

Prohibition

11.2 Repealed by 2008,c.13,s.6. 2001,c.34,s.4; 2002,c.5,s.5,6; 2008,c.13,s.7.

Forested riparian zone

11.3 Repealed by 2008,c.13,s.6. 1999,c.24,s.5; 2001,c.34,s.5; 2001,c.5,s.1; 2002,c.5,s.7,8; 2008,c.13,s.6.

Cutting or removing trees

11.4 Repealed by 2008,c.13,s.6. 1999,c.24,s.5; 2001,c.34,s.6; 2002,c.5,s.9; 2008,c.13,s.6.

Permit

11.5 Repealed by 2008,c.13,s.6. 2002,c.5,s.10; 2008,c.13,s.6.

WELLS

Wells

12. Except in accordance with the regulations, no person shall

(a) engage in the business of drilling wells;

(b) undertake the construction of a well; or

(c) undertake any operation incidental to the reconstruction or abandonment of a well. 1988,c.19,s.12.

BULK WATER REMOVAL

Water transfer or removal

12.1 (1) No person shall drill for, extract, take or use groundwater for the purpose of transfer or removal from the province.

Idem

(2) No person shall extract, remove or withdraw water from any water basin, watercourse or other surface water body in the province for the purpose of transfer or removal from the province.

Exceptions

(3) Subsections (1) and (2) do not apply to water

(a) that is to be used for drinking water purposes and is packaged in Prince Edward Island in containers having a capacity of not more than 25 litres; or

(b) that is removed in the ordinary course of carrying water in a vehicle, vessel or aircraft for use by persons or animals while they are being transported in it.

Idem

(4) Subsections (1) and (2) do not apply to water

(a) that is removed in a vessel, vehicle or aircraft and is necessary for

(i) the ordinary operation of the vehicle, vessel or aircraft, or

(ii) the transport of food or products in the vehicle, vessel or aircraft; or

(b) that is removed, with the written permission of the Minister, to meet short-term safety, security or humanitarian needs. 2001,c.34,s.7.

WASTE TREATMENT AND WATER SUPPLY SYSTEMS

Approval required

13. (1) No person shall undertake the establishment of a waste treatment system or water supply system, or shall change any existing system, without first obtaining written approval from the Minister.

Plans and detailed information

(2) An application for approval pursuant to subsection (1) shall be supported by the plans and specifications of the waste treatment system or water supply system and the work to be undertaken, and such other information as the Minister may require.

Investigation and remedial action

(3) Where it appears to the Minister that any person has contravened subsection (1), the Minister may order an investigation of the violation and may order the person to take such action as the Minister considers necessary. 1988,c.19,s.13.

Minister may order system

14. (1) Where the Minister is satisfied that for the purpose of protecting the environment or environmental health it is necessary to do so he may, by order, require that an area be served by a water supply system or waste treatment system.

Idem

(2) An order under subsection (1), shall be directed to the person causing or likely to cause the hazard to the environment or environmental health. 1988,c.19,s.14.

Alterations

15. Repealed by 1992,c.21,s.5.

Maintenance

16. Waste treatment and water supply systems shall at all times be maintained and operated in such manner and with such facilities as the Minister may direct. 1988,c.19,s.16.

Entry on private property

17. When the Minister finds it necessary that any public utility locate any portion of a waste treatment system or water supply system on private property and that no agreement can be reached with the owner, the Minister may order, subject to the approval of the Lieutenant Governor in Council, on such terms and conditions and subject to the payment of such compensation, if any, as may seem just, that the public utility have leave to enter upon the private property and there locate any portion of a system and have access thereto at all times for repairing, operating or maintaining the same. 1988,c.19,s.17.

Water and sewerage corporations

18. (1) The Lieutenant Governor in Council may, by order, create a body to acquire, construct, establish, alter, extend, control, manage, maintain, or operate any waste treatment system, waste management system or water supply system, and may constitute a body so created a body corporate for the purposes of the Act and may

(a) prescribe its name, composition and functions;

(b) prescribe the manner of appointment of its members and their terms of office;

(c) prescribe the functions of the corporation; and

(d) subject to section 18.1, exempt the corporation and any works operated by it in whole or in part from the provisions of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, and the *Water and Sewerage Act* R.S.P.E.I. 1988, Cap. W-2.

Powers

(2) A corporation constituted under subsection (1), or the Minister, may

(a) acquire, construct, establish, alter, extend, control, manage, and operate waste treatment systems, waste management systems and water supply systems;

(b) provide and supply water to a municipality or person;

(c) receive, treat, or dispose of sewage for a municipality or person;

(d) make agreements with a municipality or person with respect to the operation of a waste treatment system or water supply system, or the reception, treatment and disposal of sewage;

(e) acquire, alienate, hold, dispose of real or personal property;

(f) engage and pay personnel;

(g) subject to section 18.1, assess, charge, and collect fees for services to a municipality or person;

(h) operate a waste treatment system or water supply system on behalf of government, municipality or person;

(i) perform any function authorized by the Lieutenant Governor in Council;

(j) prescribe the remuneration of its members; and

(k) establish a system for the collection, transportation, separation, treatment or disposal of waste.

Power to levy rates

(3) A corporation constituted under subsection (1) may levy rates in respect of water and sewerage services and for the collection, transportation, separation, treatment and disposal of waste.

Maximum frontage upon which rate may be levied

(4) Rates may be levied by a corporation constituted under subsection (1) for water or sewerage services by means of frontage charges and where rates are so levied, the maximum frontage of any parcel of land in respect of which rates may be levied is five hundred feet if the parcel

qualifies for a farm assessment under the *Real Property Assessment Act* R.S.P.E.I. 1988,Cap. R-4.

Lien

(5) Rates levied pursuant to subsection (3) constitute a lien on the real property on which the rate is levied until payment is made and that lien has priority over every claim, privilege or encumbrance of every person, except the Crown against that property.

Service deemed to be received

(6) For the purposes of this Act, a person along whose lands run sewer or water mains shall be deemed to receive service notwithstanding that such sewer or water mains are not physically connected by lateral lines to any residence, building or other structure situate upon the said lands of such person. 1988,c.19,s.18; 1989,c.9,s.2; 1991,c.10,s.6; 1991,c.18,s.22; 1995,c.11,s.3; 2005,c.34,s.1; 2015,c.36,s.25(2).

Definitions

18.1 (1) In this section

Commission

(a) "Commission" means the Island Regulatory and Appeals Commission established under the *Island Regulatory and Appeals Commission Act*;

Corporation

(b) "Corporation" means the Island Waste Management Corporation established by an order made under section 18;

current rate

(c) "current rate" means a rate that is charged, on the day before this section comes into force, by the Corporation for a service it provides;

service

(d) "service" means a service respecting the collection, transportation, separation, treatment and disposal of waste.

Submission of rates for review and approval

(2) When the Corporation wishes to vary the rates for any existing services, or to establish rates for any new services, the Corporation shall submit for the review and approval of the Commission

(a) a schedule of the proposed rates together with a description of the services to which they relate and any conditions or terms of service that are to apply in respect of those rates;

(b) a submission justifying or explaining the proposed rates; and

(c) such other information concerning the proposed rates and the financial affairs of the Corporation as the Commission may require.

Review by Commission

(3) On receipt of a submission by the Corporation made in accordance with subsection (2), the Commission

(a) shall cause notice of the submission to be published that invites written submissions from the public; and

(b) after allowing such time as the Commission considers appropriate for public submissions to be made, shall review the

submission of the Corporation and any written submissions of the public that the Commission has received.

Decision of Commission

(4) After reviewing the submissions referred to in subsection (3), the Commission may, subject to subsection (9),

(a) approve the rates proposed by the Corporation;

(b) determine and fix new rates; or

(c) refuse the rates proposed and confirm the existing rates.

Decision in 60 days

(5) The Commission shall make a decision under subsection (5) not later than 60 days from the date of the submission by the Corporation under subsection (2).

Rates chargeable

(6) Subject to subsection (7), the rates that are approved, determined and fixed or confirmed by the Commissioner under this section are the lawful rates of the Corporation until altered or modified under this section.

Current rates

(7) The current rates of the Corporation are the lawful rates of the Corporation until altered under this section.

Lawful rates

(8) The Corporation shall not charge, and shall not be entitled to collect with respect to the provision of a service, any rate other than one that is a lawful rate as determined by or under this section.

Corporation entitled to recover costs

(9) When making a decision in respect of a submission by the Corporation, the Commission shall allow the Corporation to earn, annually or within such other period as the Commission considers appropriate, such return from its rates for each type of service the Corporation provides as the Commission considers is just and reasonable to recover the costs incurred by the Corporation to provide that type of service.

Earnings

(10) The Commission may allow the Corporation to earn, in addition to the return required by subsection (8), such amount as the Commission considers appropriate in respect of the operation of the Corporation. 2005,c.34,s.1.

Application of *Civil Service Act*

18.2 The *Civil Service Act* R.S.P.E.I. 1988, Cap C-8 does not apply and has never applied to

(a) any person engaged or employed by the Island Waste Management Corporation; or

(b) any person engaged or employed by

(i) Environmental Industrial Services Inc., or

(ii) any other corporation owned by the Island Waste Management Corporation. 2010,c.11,s.1.

19. The power vested in the Island Regulatory and Appeals Commission to set sewer and water rates is not affected by this Act except where otherwise provided under clause 18(1)(d). 1988,c.19,s.19; 1991,c.18,s.22.

Saving

DISCHARGE OF CONTAMINANTS

20. Except as permitted by the *Pesticides Control Act* R.S.P.E.I. 1988, P-4, the regulations or with the written permission of the Minister no person shall

(a) discharge, or cause or permit to be discharged; or

(b) being the owner or person having control of a contaminant, discharge or cause or permit to be discharged,

a contaminant into the environment. 1992,c.21,s.6; 2001,c.34,s.8; 2015,c.36,s.25(3).

Spills

21. (1) Every person who, without permission under section 20, discharges, or causes or permits to be discharged, a contaminant into the environment, or who owns or has control of a contaminant which is discharged into the environment shall

(a) immediately notify the Department; and

(b) take such action as the Minister may direct

(i) to investigate and define the extent, nature and impact of the contaminant, and

(ii) to repair, restore and remedy the environment or to confine or contain the effects of the contaminant.

Notice and remedial measures

(2) Where any person fails to take such action as is directed by the Minister pursuant to subsection (1), and where the discharge of a contaminant into the environment has caused, is causing or may cause a threat to the environment or environmental health, the Minister may make application to the Supreme Court for an injunction requiring that person to carry out that action. 1992,c.21,s.7; 2015,c.36,s.25(2).

Injunction

CONTAMINATED SITES

21.1 (1) The Minister shall establish a contaminated sites registry.

Contaminated sites registry

(2) The Minister

(a) shall provide for access by the public to information in the registry; and

(b) may impose fees, in accordance with the regulations, for providing access to or supplying information from the registry.

Access to registry, fees

(3) Subject to this section, where, after considering the evidence, standards and criteria that the Minister considers relevant, and all

Designation of contaminated sites

regulations made under clause 25(1)(w), the Minister is of the opinion that an area of the environment is a contaminated site, the Minister may designate that area of the environment as a contaminated site.

Entry of contaminated sites in registry

(4) The Minister shall cause areas of the environment designated as contaminated sites to be entered into the contaminated sites registry.

Notice of designation

(5) The Minister shall, before designating an area of the environment as a contaminated site,

(a) give notice, in writing, to the registered owner, and to any occupier, of the area of the Minister's intention to designate the area as a contaminated site; and

(b) provide a reasonable opportunity for the registered owner, and to any occupier, of the area, to comment on the Minister's intention to designate the area of the environment as a contaminated site.

Postponement of designation

(6) The Minister may postpone a designation under subsection (3) in respect of an area of the environment if

(a) the registered owner, or any occupier, of the area enters into an agreement with the Department, satisfactory to the Minister, for the repair, restoration and remediation of the area; and

(b) the registered owner, or any occupier, of the area, as the case may be, complies, to the Minister's satisfaction, with the agreement.

Notice of designation

(7) The Minister shall, after designating an area of the environment as a contaminated site under subsection (3), give written notice of the designation, together with reasons for the designation, to the registered owner, and to any occupier, of the area.

Alteration of contaminated sites

(8) After an area of the environment has been designated as a contaminated site, the registered owner, or any occupier, of the contaminated site shall not alter the contaminated site unless the registered owner, or occupier, of the contaminated site, as the case may be, first obtains the written authorization of the Minister to do so.

Requirement for further research, etc.

(9) The Minister may, on written application, issue a written authorization referred to in subsection (8) and may require any person who makes the application to provide any information, research, or study the Minister considers necessary to assess the application.

Orders relating to contaminated sites

(10) A copy of an environmental protection order issued under this Act in respect of an area of the environment that is designated as a contaminated site shall be placed in the contaminated sites registry.

Cancellation of designation

(11) Where the Minister is of the opinion that the area of the environment is no longer a contaminated site, the Minister shall

(a) cancel the designation of a contaminated site made under subsection (3); and
(b) cause the removal of the designation from the contaminated sites registry. 2004,c.30,s.2; 2008,c.13,s.7.

SAND DUNES AND BEACHES

Operation of motor vehicles

22. (1) No person shall, without written permission of the Minister,
(a) operate a motor vehicle on a beach or a sand dune; or
(b) carry out any activity that will or may
(i) interfere with the natural supply or movement of sand to or within a beach or a sand dune, or
(ii) alter, remove, or destroy natural stabilizing features, including vegetation, of a beach or a sand dune.

Activities related to moss harvesting etc. excepted

(2) Clause (1)(a) does not apply to the operation of a motor vehicle on a beach for the conduct of activities related to the legal harvesting of a fishery resource or the legal removal of beach material. 1991,c.10,s.7; 2015,c.36,s.25(3).

Idem

23. Repealed by 1991,c.10,s.8.

LITTERING

Litter

24. No person shall deposit litter
(a) upon any land not approved by the Minister for this purpose; or
(b) into or upon any watercourse or wetland. 1988,c.19,s.24; 2001,c.34,s.9.

REGULATIONS

Regulations

25. (1) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary or advisable for the enhancement and protection of the environment, and without limiting the generality of the foregoing, may make regulations,
(a) respecting environmental impact assessments and ensuring specific opportunity for public involvement in the screening and assessment of undertakings;
(b) establishing environmental quality standards for part or all of the province;
(c) respecting the licenses, permits, endorsements on permits, approvals, certificates, exemptions, variances, management plans, material stewardship plans and other authorizations required to be held by persons under this Act or the regulations in respect of the carrying on of an activity or undertaking,
including regulations respecting

(i) the process for applying for any such an authorization,

(ii) the issuance, approval, refusal, renewal, expiration, amendment, suspension or revocation of any such authorization,

(iii) the qualifications or requirements for, or the circumstances or standards applicable to, any decision referred to in subclause (ii), and

(iv) the imposition of terms and conditions on any such authorization and the alteration of or requirement for compliance with such terms and conditions;

(c.1) respecting the review of records under this Act, including which records may be reviewed;

(d) respecting the fees that are payable in respect of

(i) an application for a license, permit, endorsement on a permit or certificate,

(ii) an inspection,

(iii) waste management,

(iv) a record search,

(v) the review of an environmental impact statement, and

(vi) such other matters or services provided under the Act or the regulations;

(e) respecting the design, location, configuration, construction, adaption, alteration, operation, maintenance and installation of undertakings;

(e.1) respecting the design, location, configuration, construction, operation, installation and testing of, and the restricting and reporting of emissions in respect of,

(i) asphalt plants,

(ii) fuel-burning equipment, and

(iii) incinerators;

(f) respecting plumbing standards, prescribing the use and application of the plumbing standards, and requiring a person to obtain a permit before plumbing is installed or altered;

(g) respecting the design, construction, adaption, alteration, operation, maintenance and installation of systems, processes or works to abate, manage, dispose of or control contaminants, waste or other environmental damage, and those systems, processes or works may include waste management sites, waste treatment systems and incinerators;

(h) regulating or prohibiting the collection, sale, storage, use, treatment, distribution and disposal or discharge of contaminants;

(h.1) regulating or prohibiting the storage and disposal of livestock waste and other organic waste;

(h.2) regulating or prohibiting the burning of waste or any other material or substance specified in the regulations;

(i) prescribing limits, terms and conditions on the release of contaminants and the prohibition of release of contaminants from any undertaking;

(j) regulating or prohibiting the collection, sale, storage, use, treatment, distribution and disposal of any product, container, including beverage containers, or other substance that may adversely affect the environment;

(k) respecting wells and attachments thereto and the licensing of well drillers;

(l) regulating, controlling, prohibiting, directing, or providing for the withdrawal, use, quality, quality monitoring, storage and handling of water from any natural or artificial source including any water supply system;

(l.1) requiring delineation of well-head protection areas and respecting the implementation of controls on activity within the well-head protection area which may include the restriction and prohibition of any activity in the area;

(m) prohibiting the alteration of any watercourse, or wetland, or the water flow therein unless the alteration is

(i) authorized by a license or permit issued under the regulations and the alteration is carried out in accordance with any terms or conditions imposed on such a license or permit, or

(ii) permitted by an exception or exemption set out in the regulations;

(m.1) regulating, controlling, and providing for, the alteration of any watercourse, or wetland, or the water flow therein, including regulations

(i) requiring a license or permit issued under the regulations to carry on the alteration, and

(ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which the alteration may be carried on;

(m.2) prohibiting the carrying on of any activity specified in the regulations in or on a watercourse or wetland, including

(i) the draining, pumping or diverting of water from a watercourse or wetland,

(ii) the dredging, excavating or removal of soil, mud, sand, stones, rubbish, rocks, aggregate or other material or objects of any kind from a watercourse or wetland,

(iii) the dumping, infilling or deposition of soil, water, mud, sand, stones, rubbish, litter, rocks, aggregate or other material of any kind into a watercourse or wetland,

(iv) the construction, placement, repair, replacement, demolition or removal of buildings, structures or obstructions of any kind,

including bridges, culverts, breakwaters, dams, docks, slipways and flood or erosion protection works,

(v) the operation of any heavy equipment or a motor vehicle on the sediment bed, beach or bank of a watercourse or on a wetland,

(vi) the disturbance, removal, alteration, disruption or destruction of the ground, either by excavating or depositing earthen or other material,

(vii) the disturbance, alteration, destruction or removal of vegetation of any kind in or on a watercourse or wetland, including but not limited to the cutting down of live trees or live shrubs, or

(viii) the carrying on of any type of watercourse or wetland enhancement activity, including but not limited to debris removal, habitat development, or the placement of structures,

unless the activity is authorized by a license or permit issued under the regulations and the activity is carried on in accordance with any terms or conditions imposed on such license, permit or certificate, or unless the activity is permitted by an exception or exemption set out in the regulations;

(m.3) regulating, controlling or providing for the carrying on of any activity specified in the regulations, including any activity referred to in clause (m.2), in or on a watercourse or wetland, including regulations

(i) requiring a license, permit or certificate issued under the regulations to carry on that activity, and

(ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity may be carried on;

(n) requiring an environmental permit for the construction or operation of certain undertakings, and the issuance or withdrawal of the permits;

(o) respecting the methods of analyzing samples and prescribing the equipment or apparatus or structures to be used for taking samples;

(p) respecting chemical or petroleum storage tank systems;

(q) regulating the disposal of litter;

(r) prescribing forms;

(s) respecting wastewater emissions;

(t) respecting emissions into the air;

(u) respecting the design, location, operation and reclamation of excavation pits;

(v) controlling, restricting or prohibiting any act for the purpose of abating noise or controlling noise levels;

(w) respecting the standards and criteria to be used for the purpose of designating an area of the environment as a contaminated site;

(x) respecting agreements made under subsection 21.1(6) for the repair, restoration and remediation of contaminated sites pursuant to subsection 21.1(3);

(y) respecting the contaminated sites registry and its operation, including the location and hours of the offices of the Registry;

(z) respecting assessment and rehabilitation criteria of contaminated sites and contaminant releases pursuant to subclause 21(1)(b)(ii);

(aa) for the purposes of subsection 21.1(8), defining the word "alter", or describing the actions pertaining to, or the uses of, an area of the environment designated as a contaminated site that constitute an alteration of that area;

(bb) respecting the cancellation and removal of a designation of a contaminated site from the contaminated sites registry;

(cc) defining words, phrases or terms that are used in this Act or the regulations and that are not defined in this Act;

(dd) respecting the geographic information system database maintained by the Department that is called the "Prince Edward Island Wetland Inventory", including regulations respecting

(i) the maintenance, amendment, publication, inspection and the proof of the contents of the Inventory,

(ii) the identification in the Inventory of areas of the province that are wetlands, and

(iii) the categorization of wetlands in the Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, shrub swamp, wooded swamp, bog or meadow;

(ee) prohibiting the alteration or the disturbance of the ground or soil within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary unless the alteration or disturbance is

(i) authorized by a license or permit issued under the regulations and the alteration or disturbance is carried out in accordance with any terms or conditions imposed on such license or permit, or

(ii) permitted by an exception or exemption set out in the regulations;

(ff) regulating, controlling or providing for the alteration or the disturbance of the ground or soil within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations

(i) requiring a license or permit issued under the regulations authorizing the carrying on of that alteration or disturbance, and

(i) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that alteration or disturbance may be carried on;

(gg) prohibiting the carrying on of any activity specified in the regulations within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including

(i) the draining or pumping of water;

(ii) the dredging, excavating or removal of soil, mud, sand, stones, rubbish, rocks, aggregate or other material of any kind,

(iii) the dumping, infilling or deposition of soil, water, mud, sand, stones, rubbish, rocks, aggregate or other material or objects of any kind,

(iv) the construction, placement, repair, replacement, demolition or removal of buildings, structures or obstructions of any kind, including but not limited to bridges, culverts, breakwaters, dams, wharves, docks, slipways and flood or erosion protection works,

(v) the operation of any heavy equipment or a motor vehicle,

(vi) the disturbance, removal, alteration, disruption or destruction of the ground, either by excavation or depositing earthen or other material,

(vii) the disturbance, removal, alteration, disruption or destruction of vegetation, either by excavation or depositing earthen or other material,

(viii) the cutting down of live trees or live shrubs,

(ix) the planting and cultivation of an agricultural crop, or

(x) the spraying or application of any pesticide in any manner,

unless the activity is authorized by a license or permit issued under the regulations and the activity is carried on in accordance with any terms or conditions attached to such license or permit, or unless the activity is permitted by an exception or exemption set out in the regulations;

(hh) regulating, controlling or providing for the carrying on of any activity specified in the regulations, including any activity referred to in clause (gg), in or on a watercourse or wetland, including regulations

(i) requiring a license or permit issued under the regulations authorizing the carrying on of that activity, and

(ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity may be carried on;

(ii) prohibiting the cultivation of any row crop or any portion thereof within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, unless the cultivation is authorized by a written exemption or variance issued under, or permitted by an exception set out in, the regulations;

(jj) regulating, controlling or providing for the cultivation of any row crop or portion thereof within a prescribed distance of the

landward side of a watercourse boundary or a wetland boundary, including regulations

(i) requiring a written exemption or variance issued under the regulations authorizing the carrying on of that cultivation, and

(ii) respecting the manner, circumstances, exceptions, standards or conditions under which that cultivation may be carried on;

(kk) respecting the geographic information system database maintained by the Department that is called the "Prince Edward Island Sloped Land Inventory", including regulations

(i) respecting the maintenance, amendment, publication, inspection and the proof of the contents of the Inventory, and

(ii) deeming the areas of land identified in the Inventory as having a slope of greater than 9% and an area of at least one hectare, or as having such other characteristics as the regulations may specify;

(ll) prohibiting on a provincial parcel of land, the cultivation of one or more hectares of a row crop on any area of that parcel which has a slope greater than 9%, unless there is a management plan for the provincial parcel of land and the cultivation of the row crop is carried on in accordance with that management plan;

(mm) regulating, controlling or providing for, on a provincial parcel of land, the cultivation of one or more hectares of a row crop on any area of that parcel which has a slope greater than 9%, unless there is a management plan for the provincial parcel of land and the cultivation of the row crop is carried on in accordance with that management plan;

(nn) respecting management plans, including the contents, components, establishment, approval, terms and conditions, amendment, maintenance, expiry and revocation of management plans;

(oo) respecting the appointment of management specialists and respecting their powers and duties in respect of management plans or other matters;

(pp) requiring the owner and operator of an intensive livestock operation to ensure that no livestock waste from the intensive livestock operation enters any watercourse or wetland;

(qq) prohibiting, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary,

(i) the construction of an intensive livestock operation, or the construction of any building, structure, facility, or any part thereof, of an intensive livestock operation,

(ii) the construction of a new building, structure or facility, or any part thereof, or the expansion or renovation of existing

buildings, structures or facilities, of an existing intensive livestock operation, or

(iii) the carrying on of any activity connected or associated with, or supporting, an activity referred to in clause (i) or (ii),

unless such activity or undertaking is carried on under a written authorization issued under the regulations, or unless the activity or undertaking is permitted by an exception set out in the regulations;

(rr) regulating, controlling or providing for the carrying on of any activity or undertaking referred to in clause (qq) within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations

(i) requiring a written authorization issued under the regulations to carry on that activity or undertaking, and

(ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity or undertaking may be carried on;

(ss) prohibiting the keeping of livestock, in a density greater than the maximum prescribed number of animal units per acre of living space, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, unless the keeping of livestock in such a density and within such a distance of the landward side of a watercourse boundary or a wetland boundary is authorized in writing by the Minister, or unless it is permitted by an excepting set out in the regulations;

(tt) regulating, controlling or providing for the keeping of livestock within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, respecting the density of livestock, as measured in terms of the number of prescribed animal units per acre of living space or otherwise, that may be kept within a prescribed distance of the landward side of a watercourse boundary or wetland boundary, including regulations

(i) requiring a written authorization issued under the regulations for the keeping of livestock, in a density in excess of the maximum density established by the regulations, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, and

(ii) respecting the manner, circumstances, exceptions, standards and conditions under which the keeping of livestock within such a distance of landward side of watercourse boundary or a wetland boundary may be carried on;

(tt.1) respecting recyclable materials, including regulations

(i) prescribing recyclable materials,

(ii) establishing criteria for determining whether a material is a recyclable material,

(iii) creating different classes of recyclable materials for different purposes,

(iv) prohibiting or restricting the acceptance, collection, storage, handling, transportation, processing or disposal of recyclable material or classes of recyclable materials,

(v) requiring that a recyclable material or any other material or product be recycled or reused, and

(vi) prohibiting or restricting the disposal of a recyclable material in a landfill, composting facility, incinerator, recycling facility or other site;

(tt.2) respecting designated materials, including regulations

(i) prescribing designated materials,

(ii) establishing criteria for determining whether a material is a designated material,

(iii) creating different classes of designated materials for different purposes,

(iv) prohibiting or restricting the manufacture, acceptance, collection, sale, supply, offering for sale or supply, packaging, labelling, storage, handling, distribution, transportation, processing, disposal, recycling, recovery and reuse of designated materials,

(v) requiring that a designated material be recycled or reused, and

(vi) prohibiting or restricting the disposal of a designated material in a landfill, composting facility, incinerator, recycling facility or other site;

(tt.3) respecting material stewardship programs for designated materials, including regulations

(i) requiring the development and implementation of material stewardship programs for the management, collection, sale, supply, offering for sale or supply, packaging, labelling, storage, handling, distribution, transportation, processing, disposal, waste minimization, recycling, recovery, reuse and reduction in use of designated materials by manufacturers, distributors, retailers or any other person,

(ii) requiring that a material stewardship program be approved by the Minister, subject to the terms and conditions that the Minister considers appropriate,

(iii) establishing standards for material stewardship programs,

(iv) requiring participation in a material stewardship program and providing for the exemption of persons from a requirement to participate in a material stewardship program,

(v) authorizing a person to designate a third party to operate a material stewardship program on the person's behalf,

(vi) respecting the keeping and inspection of records in respect of a material stewardship program,

(vii) requiring the reporting of information in respect of a material stewardship program to the Minister,

(viii) requiring the provision and posting of public and educational information and material respecting material stewardship programs, and

(ix) requiring a person to provide security to ensure the person's compliance with the terms of a material stewardship program and respecting the form, amount and content of the security;

(tt.4) respecting recycling facilities, including regulations

(i) prohibiting the operation of a recycling facility unless authorized by a permit issued under the regulations,

(ii) establishing standards for the operation, construction and design of recycling facilities, and

(iii) prohibiting or restricting the acceptance, collection, storage, handling, processing or disposal of any designated material at a recycling facility unless authorized by an endorsement in respect of the designated material on a recycling facility permit;

(tt.5) providing for any transitional matters or issues for the effective implementation of clauses (tt.1) to (tt.4) as the Lieutenant Governor in Council considers necessary or advisable;

(uu) respecting the entry upon private property and inspection of any premises, other than a dwelling-place, by an environment officer, conservation officer or inspector for the purpose of ensuring compliance with this Act and the regulations;

(vv) respecting the conducting of tests, and the taking of samples, photographs and measurements of water or other liquid, soil, vegetation or other thing or matter by an environment officer, conservation officer or inspector for the purpose of ensuring compliance with this Act and the regulations;

(ww) requiring any person to produce for inspection, on the request of an environment officer, conservation officer or inspector, any records or other documents concerning matters relevant to ensuring compliance with this Act and the regulations;

(xx) requiring any person to produce for inspection, on the request of an environment officer, conservation officer or inspector, any certificate, license, permit, variance, exemption, management plan or other authorization required to carry on any activity or undertaking under this Act or the regulations;

(yy) respecting the stopping of motor vehicles by an environment officer or conservation officer for the purposes of enforcing this Act and the regulations;

(zz) providing that compliance by a person with the provisions of and standards set out in this Act and the regulations, and with the terms and conditions of licenses, permits, endorsements on permits, certificates, management plans, material stewardship plans, exemptions, variances and other authorizations issued under this Act and the regulations, does not preclude the issuance to the person of an environmental protection order under section 7 or 7.1 of this Act or the issuance to the person of an emergency field order referred to in clause (aaa), where the Minister or an environment officer believes, on reasonable and probable grounds, that an activity or undertaking carried on by that person is a threat to the environment or environmental health;

(aaa) respecting the issuance of verbal and written emergency field orders by an environment officer to any person who is or was carrying on an activity which is a violation of the regulations, or who is the registered owner of the property on which that activity or undertaking is or was carried on, or to any other person specified in the regulations, requiring that person to cease the activity and to take such remedial action as is specified in the order;

(bbb) requiring any person to whom a verbal or written emergency field order referred to in clause (aaa) is issued by an environment officer to comply with the order;

(ccc) respecting the delegation by the Minister of any function conferred on the Minister by a regulation to another Minister or to a director or other employee of the Department;

(ddd) deeming any person to whom a license, permit, endorsement on a permit, certificate, exemption, variance or other authorization is issued, or for whom a management plan or a material stewardship plan is approved, to have accepted responsibility for all work done pursuant thereto;

(eee) exempting the Minister, and any employee or officer of the Crown from liability for any loss or damage caused by

(i) any activity or undertaking or other thing done under a license, permit, endorsement on a permit, exemption, management plan, material stewardship plan or other authorization issued under this Act or the regulations,

(ii) the revocation of any such license, permit, endorsement on a permit, exemption, management plan, material stewardship plan or other authorization, or

(iii) the amendment of any terms and conditions of any such license, permit, endorsement on a permit, exemption, management plan, material stewardship plan or other authorization;

(fff) providing that no action or other proceeding for damages lies or shall be instituted against

(i) the Minister,

(ii) any person to whom the Minister has delegated one or more of his or her functions under this Act or the regulations,

(iii) any environment officer, conservation officer or inspector or any other person acting under the authority of this Act or the regulations, or

(iv) any other person lawfully assisting or acting under the direction of any person referred to in subclauses (i) to (iii),

for anything done or not done, in good faith in the performance or intended performance of any duty or exercise or intended exercise of any power under this Act or the regulations;

(ggg) prohibiting the giving of false or misleading information in any application, report or statement or any other document submitted or made to the Minister, an inspector, an environment officer, a conservation officer, management specialist or other employee of the Department, under this Act or the regulations;

(hhh) respecting the grounds for refusing a license, permit, endorsement on a permit, variance, certificate, exemption, management plan, material stewardship plan or other authorization that is the subject of an application, or that has been issued or approved, under this Act or the regulations;

(iii) requiring any person to whom an environment officer or an inspector makes a request for assistance or information to provide all reasonable assistance and all information reasonably necessary to enable the environment officer or inspector to carry out his or her functions under this Act and the regulations;

(jjj) prohibiting the obstruction of, or knowingly making of false or misleading statements to, an environment officer or an inspector engaged in carrying out his or her functions under this Act or the regulations;

(kkk) prohibiting any person from violating or contravening any provision of the regulations or any term of condition of any license, permit, endorsement on a permit, variance, certificate, exemption, management plan, material stewardship plan or other authorization issued under this Act or the regulations;

(lll) respecting the burden of proof on a defendant, in any prosecution of an offence under this Act or the regulations, upon the prosecution establishing a *prima facie* case, or upon a defendant,

(i) to prove due diligence, or

(ii) to prove that any exception, exemption, proviso, excuse or qualification provided for or recognized in this Act or the regulations operates in favour of the defendant;

(mmm) establishing factors which may be taken into account, in any prosecution of an offence under this Act or the regulations, to determine whether a defendant exercised due diligence;

(nnn) deeming, for the purposes of a prosecution of an offence under this Act or the regulations, the registered owner of the property on which any activity or undertaking is or was carried on in contravention of this Act or the regulations to have caused or permitted the activity or undertaking unless the registered owner establishes, on the balance of probabilities, that the registered owner did not do so, and respecting the onus or burden of proof of the registered owner to do so;

(ooo) deeming, for the purposes of a prosecution of an offence under this Act or the regulations, the identification in the Prince Edward Island Wetland Inventory of any area of the province as open water, deep marsh, shallow marsh, brackish marsh or salt marsh to be prima facie evidence that the area is such a type of wetland;

(ppp) respecting the appeal of any order made under this Act or the regulations, or of any decision made under this Act or the regulations to refuse, revoke or amend a permit, endorsement on a permit, variance, exemption or other authorization or of any decision to refuse to approve a management plan or material stewardship plan or to revoke or amend a management plan or material stewardship plan including

(i) providing for the appeal of such order or decision to the Island Regulatory and Appeals Commission,

(ii) respecting the procedure for the appeal from such an order or decision, and

(iii) providing that the order or decision continues in effect pending the determination of the appeal;

(qqq) prescribing the fine or range of fines that a person is liable to, on summary conviction, where the person is found guilty of an offence for contravening a provision of this Act or the regulations;

(rrr) establishing that any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by the corporation is guilty of an offence;

(sss) prescribing or specifying any thing or matter required or permitted by this Act to be, or referred to in this Act as being, prescribed or specified by the regulations, for which a specific power is not otherwise provided in this Act;

(ttt) providing for the continuation or revocation of any permit or other authorization issued under sections 10 to 11.5 of this Act that is in force immediately prior to the repeal of those provisions;

(uuu) providing for any transitional matters or issues arising out of the repeal of sections 10 to 11.5 of this Act as the Lieutenant Governor in Council considers necessary or advisable, including providing for, the expiry of existing permits issued under section 10 of the Act;

(vvv) respecting any other matters that the Lieutenant Governor in Council considers necessary or advisable to facilitate the implementation or administration of this Act.

Adoption of codes

(2) A regulation made under subsection (1) may adopt by reference in whole or in part, with such changes as the Minister considers necessary, any code or standard, or any regulation made by any other government in Canada or recognized technical organization, and may require compliance with any code, standard or regulation so adopted. 1988,c.19,s.25; 1992,c.21,s.8; 2004,c.30,s.3; 2004,c.4,s.2; 2008,c.13,s.8; 2009,c.69,s.2; 2012(2nd),c.8,s.5; 2015,c.27,s.2; 2015,c.36,s.25(3).

GENERAL

False information

26. No person shall knowingly give false information in any application, return, or statement made to the Minister, an environment officer, or any employee of the Department, in respect of any matter under this Act or the regulations. 1988,c.19,s.26.

Enforcement

27. (1) This Act and the regulations may be enforced by

(a) the Minister;

(b) an environment officer;

(c) repealed by 2008,c.13,s.9;

(d) any officer or member of the Royal Canadian Mounted Police;

(e) a conservation officer appointed under the *Wildlife Conservation Act*; or

(f) a fisheries officer designated under the *Fisheries Act* (Canada).

Obstruction

(2) No person shall obstruct or attempt to obstruct any person lawfully carrying out the enforcement of this Act or the regulations. 1991,c.10,s.9; 2008,c.13,s.9; 2015,c.36,s.25(3).

Revocation, terms and conditions

28. The Minister may, as the Minister considers necessary, revoke, impose terms and conditions on, or alter any terms and conditions of, any authorization issued under this Act or the regulations, including the following:

(a) an order, including an environmental protection order;

(b) a license;

(c) a certificate;

(d) an approval;

(e) a permit or an endorsement on a permit;

(f) a variance;
(g) a management plan;
(h) a material stewardship plan;
(i) an exemption;
(j) a permission. 2002,c.5,s.11; 2006,c.5,s.4; 2008,c.13,s.10; 2009,c.69,s.3.

Orders - service

29. (1) No person to whom an order, including an environmental protection order, is directed pursuant to this Act or the regulations is required to comply with the order until the order has been served on the person.

When order sufficiently served

(2) Any order issued pursuant to this Act or the regulations is deemed to be sufficiently served
(a) upon a copy being personally served on the person to whom it is directed;
(b) upon a copy being sent by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt being received;
(c) five days after a copy is sent by mail addressed to the person to whom it is directed at the last known address for that person; or
(d) in the case of a registered owner of real property, five days after a copy is sent by mail to the address for the registered owner shown on the last revised assessment roll.

Service of director or officer of corporation

(3) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (2) is deemed to be service on the corporation for the purposes of this Act.

Order for substituted service

(4) Where it is impractical for any reason to serve an order in a manner referred to prescribed in subsection (2), an ex parte application may be made to a judge of the Supreme Court who may make an order for substituted service providing for such steps to be taken to bring the matter to the attention of the person to be served.

Evidence

(5) Any order issued pursuant to this Act or the regulations shall be *prima facie* proof in proceedings in any court not only that the order was legally made, but also that every administrative prerequisite necessary to enable the making of the order was done and satisfied, and no further proof than the mere production of the original order or a copy thereof certified by the Minister or his authorized representative, is necessary. 1988,c.19,s.29; 2005,c.32,s.4; 2008,c.13,s.11.

Island Regulatory and Appeals Commission

29.1 (1) In this section, "Commission" means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11.

Right of appeal to Commission

(2) A person to whom an environmental protection order is issued by the Minister or an environment officer under subsection 7(2) or 7.1(2) may, within 21 days from the date the environmental protection order is served on the person, appeal the environmental protection order by serving a notice of appeal on the Commission.

Idem

(3) A person to whom an order is issued by the Minister or an environment officer under the regulations may, within 21 days from the date the order is served on the person, appeal the order by serving a notice of appeal on the Commission, if the regulations indicate that the order may be appealed to the Commission in accordance with this section.

Idem

(4) A person who is aggrieved by a decision of the Minister or of any officer or employee of the Department

(a) to refuse that person a permit, endorsement on a permit, variance, exemption or other authorization that may be issued under this Act or the regulations;

(b) to revoke or amend a permit, endorsement on a permit, variance, exemption or other authorization held by that person under this Act or the regulations; or

(c) to refuse to approve a management plan or a material stewardship plan proposed by that person under the regulations, or to revoke or amend a management plan or a material stewardship plan of that person after it was approved,

may, within 21 days from the date the decision is served on the person, appeal the decision by serving a notice of appeal on the Commission, if the regulations indicate that the decision may be appealed to the Commission in accordance with this section.

Notice

(5) A notice of appeal served on the Commission under this section shall be in writing, on a form approved by the Commission, and shall state the grounds for the appeal, the relief sought, and the name and address of the person making the appeal.

Idem

(6) The service of a written notice of appeal under this section does not operate as a stay of, and shall not in any way affect the environmental protection order or order referred to in subsection (3) or a decision referred to in subsection (4), as the case may be, that is the subject matter of the appeal.

(7) In any appeal under this section, the Commission shall serve notice upon the person making the appeal and the Minister of the date, time and place at which the appeal will be heard. Notice of hearing

(8) Where a notice is served by the Commission under subsection (7), the notice may be served personally, or *Idem*

(a) where the notice is served on the Minister, by mailing the notice to the business address of the Minister; or

(b) where the notice is served on a person making the appeal, by mailing the notice to the address on the person's notice of appeal.

(9) Where service referred to in subsection (8) is made by mail, the service shall be deemed to be made on the fifth day after the date of mailing, unless the person on whom service is being made establishes that the person, acting in good faith, through the absence, accident, illness or other cause beyond the person's control, did not receive the notice until a later date. Deemed service

(10) The Commission shall, when hearing an appeal, determine its own procedure, subject to adherence to the rules of natural justice. Procedure

(11) The Commission shall hear and decide an appeal and shall issue an order giving effect to its disposition. Order

(12) The Commission may vary, confirm or rescind the order or decision being appealed. *Idem*

(13) The Commission shall give written reasons for its decision and shall provide a certified copy of its decision or order to the person making the appeal and to the Minister. 2008,c.13,s.12; 2009,c.69,s.4. Reasons for decision

30. The Minister, environment officers, or any other persons acting under the authority of this Act or the regulations are not personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done in the purported exercise of any powers given by this Act or the regulations. 1988,c.19,s.30. Liability of officers

31. (1) In addition to any other remedy provided by law, any contravention or violation of this Act or the regulations may be restrained by injunction at the instance of the Minister upon application to the Supreme Court, and the court shall grant the injunction upon being satisfied that the granting of the injunction is advisable to ensure compliance with this Act or the regulations. Injunction

(2) An injunction granted pursuant to subsection (1) may be prohibitive or mandatory in nature, and where mandatory, may require the taking of action to clean or restore the environment. 1988,c.19,s.31. Form

Penalty

32. (1) Any natural person who contravenes or violates

(a) any provision of this Act or the regulations; or

(b) any term, condition or provision of any order, including an environmental protection order, license, certificate, approval, permit, endorsement on a permit, permission or other authorization issued under this Act or the regulations,

is guilty of an offence and if no penalty is otherwise specifically provided in this Act or the regulations, is liable on summary conviction to a fine of not less than $200 or more than $10,000, or to imprisonment for 90 days, or to both, and to pay such restitution as the judge thinks fit to any person aggrieved or affected by the contravention or violation.

Idem

(2) Repealed by 2008,c.13,s.13.

Idem

(3) Any corporation which contravenes or violates

(a) any provision of this Act or the regulations; or

(b) any term, condition or provision of any order, including an environmental protection order, license, certificate, approval, permit, endorsement on a permit, permission or other authorization issued under this Act or the regulations,

is guilty of an offence and if no penalty is otherwise specifically provided in this Act or the regulations, is liable on summary conviction to a fine of not less than $1,000 or more than $50,000, or its directors to imprisonment for 90 days, or to both, and to pay such restitution as the judge thinks fit to any person aggrieved or affected by the contravention or violation.

Idem

(4) Repealed by 2008,c.13,s.13.

Personal liability of corporate officers

(5) Any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by that corporation under subsection (3) is guilty of an offence and is liable, in respect of the commission of an offence by the corporation under subsection (3), to any penalty set out in subsection (1).

Continuing offence

(6) Where a contravention or violation of any provision of the Act or the regulations continues for more than one day, the offender is guilty of a separate offence for each day that the contravention or violation continues.

Limitation period

(7) Proceedings with respect to an offence under this Act or the regulations may be instituted at any time within two years after the time when the subject matter of the proceedings arose.

Prosecution of Crown

(8) For the purposes of subsection (3), Her Majesty in right of the province or in right of Canada is deemed to be a corporation.

1991,c.10,s.10; 1994,c.16,s.1; 2002,c.5,s.12; 2008,c.13,s.13; 2009,c.69,s.5.

Remedial action authorized by court

33. (1) Where

(a) pursuant to this Act or the regulations,

(i) the Minister or an environment officer has issued an order, including an environmental protection order, or

(ii) the Minister has given a direction; and

(b) the person to whom the order is issued, or the direction is given, has failed to comply with it,

the Minister may apply to the Supreme Court for an order authorizing the Minister to take such remedial action as may be specified in the order.

Order for costs of remediation

(2) After taking remedial action under a court order pursuant to subsection (1), the Minister may issue an order for the costs of the remedial action against the person to whom the original order or direction was given. 1995,c.11,s.5; 2005,c.32,s.5; 2008,c.13,s.14.

Immediate action required, order or direction

34. (1) Where

(a) pursuant to this Act or the regulations,

(i) the Minister or an environment officer has issued an order, including an environmental protection order, or

(ii) the Minister has given a direction;

(b) the person to whom the order is issued, or the direction is given, has failed to comply with it; and

(c) the order or direction relates to a matter which in the opinion of the Minister requires immediate action to prevent further injury to the environment,

the Minister may take the appropriate remedial action to carry out the terms of the order or direction.

Order for costs

(2) After taking remedial action under subsection (1) the Minister may issue an order for the costs of the remedial action against the person to whom the original order or direction was given. 1995,c.11,s.5; 2005,c.32,s.6; 2008,c.13,s.15.

Immediate action required, no order or direction

35. (1) Where contamination or damage of any kind is caused by failure of any person to comply with the provisions of this Act or regulations and where the contamination or damage relates to a matter which in the opinion of the Minister requires immediate action to prevent further injury to the environment, the Minister may take the appropriate remedial action to clean up the contamination or damage.

Order for costs

(2) After taking remedial action under subsection (1) the Minister may issue an order for the costs of the remedial action against the person who has caused the contamination or damage. 1995,c.11,s.5.

Filed order has effect as judgment

36. An order for cost of remediation under subsection 33(2), 34(2) or 35(2) may be filed with the Registrar of the Court of Appeal and the Supreme Court at any time thirty days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment. 1995,c.11,s.5; 2008,c.20,s.72(28).

APPENDIX 2