



No. 2 of 1998

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

16th April, 1998

AN ACT to amend the Environmental Protection Act, (No. 22 of 1992) to increase penalties for environmental offences; to expand the powers of the Department of the Environment to control pollution; to provide for enforcement orders; and to provide for matters connected therewith or incidental thereto.

(Gazetted 25th April, 1998.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:-

1. This Act may be cited as the

Short title.

**ENVIRONMENTAL PROTECTION (AMENDMENT)
ACT, 1998.**

No. 22 of 1992. and shall be read and construed as one with the Environmental Protection Act, which is hereinafter referred to as the principal Act.

Amendment of Section 2.

2. Section 2 of the principal Act is hereby amended in subsection (1) by the repeal of the definition of “designated officer” and its substitution by the following:-

“designated officer” or “authorized officer” means an officer designated by the Department for carrying out the provisions of this Act and any regulations made thereunder, and includes the Chief Environmental Officer, Environmental Officers, and other officers designated by the Chief Environmental Officer.’

Amendment of Section 5.

3. Section 5 of the principal Act is hereby amended by the insertion of the following subsections as subsection (2), (3), (4) and (5), the existing subsection (2) being renumbered as subsection (6) accordingly:-

“(2) A designated officer may, in exercise of the powers conferred by subsection (1) above:-

- (a) take and remove samples or make copies which in the opinion of the designated officer are necessary for the purposes specified in subsection (3) below;
- (b) seize any item necessary as evidence of the commission of an offence under this Act or regulations made thereunder;
- (c) take photographs of and on any land or premises as he considers necessary;
- (d) enter upon any land and drill boreholes for the purpose of taking and removing samples of groundwater and making studies to

assess the discharges of wastes and monitor the effect of such discharges;

- (e) inspect and take copies of computer records, relating to the provisions of this Act, or regulations made thereunder;
- (f) require any person in any place entered, to produce for inspection or for the purpose of taking copies any books, documents or papers relevant to the administration of this Act or regulations made thereunder.

(3) The purposes referred to in subsection (2) above are as follows:-

- (a) to determine whether there has been compliance with, or any contravention of, this Act or any regulations made thereunder, or any licence, environmental compliance plans, notice or thing required under this Act or regulations made thereunder;
- (b) for the good administration of this Act or regulations made thereunder.

(4) A designated officer may detain any vehicle or person, where there is reasonable suspicion that an offence has been or is likely to be committed under this Act or any regulations made thereunder, and in the exercise of this power, may request a person to produce his identification.

(5) Where any items or goods are found in any vehicle or on any person which, in the opinion of the designated officer, may constitute evidence of an offence under this Act or regulations made thereunder, the designated officer may seize any such items or goods."

**Amendment of
Section 13.**

4. Section 13 of the principal Act is hereby amended in:-

- (a) subsection (1) by substituting the word “may” for the word “might” occurring therein;
- (b) subsection (2) by substituting the words “not exceeding twenty-five thousand dollars or to imprisonment for a term not less than six months and not exceeding five years or to both such fine and imprisonment”, *for the words*, “not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment”, occurring therein.

**Amendment of
Section 16.**

5. Section 16 of the principal Act is hereby amended in subsection (2) by substituting the words, “not exceeding twenty-five thousand dollars or to imprisonment *for a term* of not less than six months and not exceeding five years or to both such fine and imprisonment”, *for the words* “not less than five thousand dollars and not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment”, *occurring therein*.

**Amendment of
Section 22.**

6. Section 22 of the principal Act is hereby amended by substituting the words “not exceeding twenty-five thousand dollars or to imprisonment for a term not less than six months and not exceeding five years or to both such fine and imprisonment”, *for the words*, “not exceeding two thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment”, *occurring therein*.

**Addition of
new Section
22A.**

7. The principal Act is hereby amended by the addition of the following new section immediately after section 22:

“Procedure. 22A. Notwithstanding the provisions of any other Act, rules or regulations, the procedure for carrying out an

environmental impact assessment shall be in accordance with the provisions of this Act and any regulations made thereunder.”

8. Section 27 of the principal Act is hereby amended by substituting the words “not exceeding five thousand dollars or to imprisonment for a term not less than six months and not exceeding five years or to both such fine and imprisonment”, *for the words*, “not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment”, *occurring therein*.

Amendment of
Section 27.

8A. Section 28 of the principal Act is hereby amended by the repeal of subsection (1) and its substitution by the following:-

Amendment
of section 28.

“(1) Every person who -

- (a) intentionally or recklessly causes a disaster that results in a loss of the use of the environment; or
- (b) shows wanton or reckless disregard for the lives or safety of other persons and thereby causes a risk of death or harm to another person;

commits an offence and is liable on summary conviction to a fine of not less than twenty-five thousand dollars and not exceeding two hundred thousand dollars, or, in the case of a conviction under paragraph (a) above, to three times the assessed value of the damage caused, whichever is the greater, or to imprisonment for a term of not less than two

years and not exceeding ten years, or to both the fine (or the assessed value of the damage) and the term of imprisonment.”

**Amendment of
Section 29.**

9. Section 29 of the principal Act is hereby amended by the insertion of the expression, “or regulations made thereunder” immediately after the word “Act”, occurring in the first line thereof.

**Amendment of
Section 41.**

10. Section 41 of the principal Act is hereby amended by the insertion of the following as subsection (1), the existing section being renumbered as subsection (2) accordingly:-

“(1) The Department may appoint any person to prosecute offences under this Act or any regulations made thereunder.”

**Repeal and
replacement of
section 44.**

11. Section 44 of the principal Act is hereby repealed and replaced by the following:-

“44. (1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) above, regulations made by the Minister may provide for:-

(a) the forms for permits, licences and authorizations to be granted under this Act or under any regulations made thereunder;

(b) the fees for permits, licences and authorizations that may be issued under this Act or any regulations made thereunder;

(c) service of any document required to be served under this Act or any regulations made thereunder;

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- (d)* the designation of suitably qualified persons as authorized to carry out the functions and duties of environmental officers under this Act;
 - (e)* the establishment of measures for the use of economic instruments and market-based approaches for emission, trading, effluent and waste disposal fees;
 - (f)* standards with respect to the protection and rehabilitation of the environment and the conservation of natural resources;
 - (g)* requiring the filing of returns concerning any matter regulated by or under this Act;
 - (h)* the grant, refusal, revocation or suspension of any licence or permit that may be issued by the Department and the terms, conditions or restrictions subject to which such licences or permits may be granted;
 - (i)* the importation, collection, storage, recycling, recovery or disposal of substances which may be hazardous to the environment;
 - (j)* procedures and requirements to be followed by any person or entity carrying out the exploration of land, water resources, seas or other natural resources;
 - (k)* the terms for enforcement notices or other orders to be made under this Act;
 - (l)* prescribing categories of projects or developments which may require a permit;

- (m) standards and codes of practices with respect to the protection and rehabilitation of the environment and the conservation of natural resources;
- (n) the discharge of wastes generally, and fees payable in relation thereto;
- (o) the fees or charges payable to the Department for services rendered by the Department in carrying out the provisions of this Act;
- (p) prohibition or regulation of the open-burning of refuse or other combustible matter;
- (q) prohibition of the use of any equipment, facility, vehicle or boat capable of causing pollution or regulating the construction, installation or operation thereof so as to prevent or minimize pollution; and
- (r) any other matter which the Minister deems necessary to be dealt with by way of regulations;

Addition of
Part IX and
Part X.

12. The principal Act is hereby amended by the addition, immediately after Part VIII, of Parts IX and X as follows:-

PART IX
AVERMENTS AND PROOF OF DOCUMENTS IN
PROCEEDINGS UNDER THIS ACT

Penalties.
CAP. 1.

45. Notwithstanding the provisions of the Interpretation Act, regulations made under this Act may provide that the contravention or breach thereof shall be punishable on summary conviction by a fine not exceeding twenty thou-

sand dollars or a term of imprisonment not exceeding ten years or by both such fine and imprisonment.

46. (1) In all proceedings in which any notice, order or other document required or authorized to be given or served under this Act has to be proved, the defendant shall be deemed to have received notice to produce it, and until the contrary is shown, that document and its due giving or service may be sufficiently proved by the production of what purports to be a copy, bearing a certificate under the hand of the person authorized to issue the original, stating that it was given or served on the date specified in the certificate.

Proof of Documents.

(2) The validity of any notice, order or other document or of its giving or service shall not be affected by any error, misdescription or irregularity which-

(a) is not calculated to mislead; and

(b) in fact does not mislead.

47. In a prosecution for an offence under this Act or any regulations made thereunder, an averment in the complaint or to the effect that:-

Averment of occupation or control.

(a) a person was the occupier, or in control, of any premises or of any part of any premises shall be deemed to be proven in the absence of proof to the contrary; or

(b) in any matter the subject of the complaint, a permit or licence was not granted or any other form of authorization had not been given shall be deemed to be proven in the absence of proof to the contrary.

48. A statement in writing purporting to be signed by the Department -

Statements to be evidence of authority.

- (a)** to the effect that a specified person has been generally or specially appointed by the Public Service Commission, the Minister or the Department -

 - (i)** as an environmental officer;
 - (ii)** as an analyst; or
 - (iii)** to institute proceedings for offences against this Act; or
- (b)** to the effect that a specified person was served with a notice under this Act and failed to comply with that notice; or
- (c)** to the effect that a specified person has not been appointed by the Department as a designated officer; or
- (d)** to the effect that any exemption has been granted, or any conditions have been imposed, or that any variation or revocation of any condition or exemption has been made under this Act; or
- (e)** to the effect that for any specified property or person -

 - (i)** there was, or was not, in force a permit on a certain date or for a certain period; or
 - (ii)** there was in force a permit which was subject to a specified condition, limitation or restriction; or

- (iii) the permit relating to the property or person was suspended on a certain date or for a certain period; or
- (f) to the effect that permission of any specified kind was, or was not, granted under this Act to any specified person; or
- (g) to the effect that no exemption of any specified kind has been granted under this Act in favor of any specified person; or
- (h) to the effect that any person was or was not licensed or did or did not have a licence, permit or authorization on a certain date or for a certain period or that a licence, permit or authorization was subject to any specified conditions, limitations, or restrictions, or that a licence, permit or authorization was suspended during a certain period or that a site was or was not licensed to accept industrial waste on a certain date or for a certain period; or
- (i) a document, standard, rule, specification or method, a copy of which is attached to the statement, is a document, standard, rule, specification or method referred to in a regulation, notice, licence, or permit under this Act; or
- (j) to the effect that a document was or was not lodged with received by, or served on, the Department;

shall be *prima facie* evidence of the matters stated therein.

Offence
relating to
false
information.

49. (1) A person commits an offence who -

- (a) intentionally or negligently provides incorrect or misleading information to, or conceals information from, the Department or a designated officer; or
- (b) intentionally or negligently provides incorrect or misleading information, or conceals information concerning the properties or hazards of industrial waste thereby endangering human life, or the environment, or adversely affecting the operation of any plant or equipment used to treat or dispose industrial waste.

(2) Any person who commits an offence under subsection (1) shall on summary conviction be liable to a fine of not exceeding ten thousand dollars or two years imprisonment or to both such fine and imprisonment.

50. (1) Notwithstanding anything to the contrary in this Act, if -

- (a) pollutants have been or are being discharged; or
- (b) a condition of pollution is likely to arise; or
- (c) any industrial waste or potentially hazardous substance appears to have been abandoned or dumped; or
- (d) any industrial waste or potentially hazardous substance is being handled; and
- (e) a designated officer is of the opinion that there is or is likely to be imminent danger to the environment;

Special powers of authorized officers where there is imminent danger to environment.

the designated officer may give such directions either orally or in writing within twenty-four hours, as the designated officer considers appropriate, to remove, disperse, destroy,

dispose of, abate, neutralize or treat any pollutant, waste, substance, environmental hazard or noise.

(2) No matter or thing done by a designated officer or by any person under a direction given by a designated officer shall, if the matter or thing was done in good faith in the exercise of the power conferred by this section on the designated officer, subject the designated officer or that person personally to any action, liability, claim or demand whatsoever.

(3) Any person who contravenes without reasonable cause a direction given by a designated officer under sub-section (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to five years imprisonment or to both such fine and imprisonment.

PART X

ENFORCEMENT NOTICES AND CESSATION ORDERS

Enforcement notices.

51. (1) If the Department is of the opinion that any person is contravening the provisions of this Act or any regulations made thereunder or is contravening any condition of any licence, permit or any condition imposed under the provisions of this Act or regulations made thereunder or is likely to contravene any such condition, the Department may serve on him an enforcement notice.

(2) An enforcement notice shall -

- (a) state the opinion of the Department in relation to the alleged contravention as provided in subsection (1);
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise;

- (e) the alteration or removal of any buildings or waste; or
- (f) any activity on the land not to be carried on, or to be carried on only to the extent specified in the notice.

(5) The Department may in the enforcement notice, order the immediate cessation of the offending activity if it is of the opinion that the circumstances giving rise to the notice are such as to warrant an order to that effect.

Variation or withdrawal of enforcement notice.

52. (1) The Department may withdraw an enforcement notice if the person on whom the enforcement notice has been served consents in writing to comply with the requirements set out in the notice.

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The Department shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of the notice.

(4) The withdrawal of an enforcement notice does not affect the power of the Department to issue a further enforcement notice.

Appeal against an enforcement notice.

53. (1) A person on whom an enforcement notice is served, or any other person having an interest in the land affected may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Supreme Court against the notice on any of the following grounds:-

- (a) that, in respect of any breach of this Act or regulations made thereunder, which

may be constituted by the matters stated in the notice or, as the case may be, the condition or limitation concerned, have been discharged;

- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of the Act or regulations;
- (d) that copies of the enforcement notice were not served as required by section 51 of this Act;
- (e) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of this Act which may be constituted by those matters or, as the case may be, to remedy any injury to any amenity which has been caused by any such breach.

(2) Where an appeal is made against an enforcement notice in which the cessation of an activity is ordered, the notice shall remain in force pending the final determination or withdrawal of the appeal.

54. (1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner or occupier of the property is in breach of the notice.

**Offence where
enforcement
notice not
complied with.**

(2) Where the owner or occupier of the property is in breach of the notice he shall be guilty of an offence and liable

on summary conviction to a fine not exceeding twenty five thousand dollars or to five years imprisonment or both.

(3) In proceedings against any person for an offence under subsection (2) of this section, it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

(4) A person who has control of, or an interest in, the land to which an enforcement notice relates (other than the owner) shall not carry on any activity which is required by the notice to cease or permit such an activity to be carried on.

(5) A person who, at any time before the end of the period for compliance with the notice, contravenes subsection (4) of this section shall be guilty of an offence and liable to a fine not exceeding twenty thousand dollars or to five years imprisonment or both, and if the offence is continued he shall be guilty of a further offence and liable to a fine of five thousand dollars for every day the offence continues.

(6) An offence under subsection (2) or (5) of this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the subsection in question by reference to any period of time following the preceding conviction for such an offence.

Arrest of person.

55. A designated officer may arrest, with or without a warrant, any person who contravenes or is suspected on reasonable grounds of contravening or having contravened any provision of this Act or any regulations made thereunder; provided that any person arrested under this section by a designated officer shall as soon as practicable be handed over by him to a police officer or taken by him to a police station.

56. (1) Any person suspected on reasonable grounds of having contravened, or of being about to contravene, any provision of this Act or any regulations made thereunder, shall upon being requested so to do by a designated officer, correctly state his name and address and if he fails to do so, he shall be guilty of an offence.

Penalty.

(2) Any person who commits an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding five thousand dollars or to one year imprisonment, or to both.

57. (1) Where a person fails to carry out an environmental impact assessment as required under this Act or any regulations made thereunder or fails to comply with the provisions of section 16 of this Act, the Department may issue an order in writing to such person directing him to cease, by such date as shall be specified in the order, the activity in respect of which the permit or environmental impact assessment, as the case may be, is required.

**Cessation
order.**

(2) Where the person to whom an order is issued under subsection (1) fails to take such steps as he considers appropriate to ensure the cessation of the activity to which the order relates, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term of not less than five years and not exceeding eight years, or to both such fine and term of imprisonment.

58. An offence under this Act or any regulations made thereunder may be commenced within two years after the commission of the offence or within two years after the Department becomes aware of the offence, whichever is the later.

**Limitation
period.**