

Ontario Water Resources Act

R.S.O. 1990, CHAPTER O.40

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Purpose

0.1 The purpose of this Act is to provide for the conservation, protection and management of Ontario’s waters and for their efficient and sustainable use, in order to promote Ontario’s long-term environmental, social and economic well-being. 2007, c. 12, s. 1 (1).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (1) - 4/06/2007

Interpretation

1 (1) In this Act,

“Agency” means the Ontario Clean Water Agency; (“Agence”)

“analyst” means an analyst appointed under the *Environmental Protection Act*; (“analyste”)

“Board” means the Ontario Municipal Board; (“Commission”)

“borrowings of the Commission” includes all loans raised by the Commission by the issue of debentures or otherwise and all advances from the Province to the Commission; (“emprunts de la Commission des ressources en eau”)

“Commission” means the Ontario Water Resources Commission; (“Commission des ressources en eau”)

“construction” includes reconstruction, improvement, extension, alteration, replacement and repairs, and “construct” has a corresponding meaning; (“construction”)

“cost” means,

- (a) in relation to a project under an agreement entered into before the 1st day of April, 1974, the cost thereof as determined by the Minister of the Environment and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Minister of the Environment may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Crown as the Minister of the Environment in his or her discretion may allocate to the project, or
- (b) in relation to a project under an agreement entered into on or after the 1st day of April, 1974, the cost thereof as determined by the Minister of the Environment and includes such engineering fees and other charges and expenses in connection with construction as the Minister of the Environment may determine and such financing costs applicable to

- the project as the Minister of Finance may determine and the Minister of the Environment in his or her discretion may allocate to the project; (“coût”)
- “Crown” means Her Majesty the Queen in right of Ontario; (“Couronne”)
- “date of completion” of a project means the date that is certified by the Minister as being the date on which the project is completed to the extent necessary to enable the Minister to supply water or to receive, treat and dispose of sewage, as the case may be; (“date d’achèvement”)
- “debentures” includes bonds, notes and other securities; (“débentures”)
- “Director” means a Director appointed under section 5; (“directeur”)
- “discharge”, when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak; (“rejet”, “rejeter”)
- “document” includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device; (“document”)
- “environmental compliance approval” means an approval issued under Part II.1 of the *Environmental Protection Act*; (“autorisation environnementale”)
- “environmental penalty” means a penalty imposed under section 106.1; (“pénalité environnementale”)
- “fiduciary” means an executor, administrator, administrator with the will annexed, trustee, guardian of property or attorney for property, but does not include a trustee in bankruptcy or trustee in bankruptcy representative; (“représentant fiduciaire”)
- “fiduciary representative” means, with respect to a fiduciary, an officer, director, employee or agent of the fiduciary, or a lawyer, consultant or other advisor of the fiduciary who is acting on behalf of the fiduciary; (“représentant d’un représentant fiduciaire”)
- “Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005” means the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement dated December 13, 2005 and signed by the Premiers of Ontario and Quebec and the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin; (“Entente de 2005 sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent”)
- “holder”, when used in reference to a licence, permit or approval, means a person who is bound by the licence, permit or approval; (“titulaire”)
- “inspection” includes an audit, examination, survey, test and inquiry; (“inspection”)
- “justice” means a provincial judge or a justice of the peace; (“juge”)
- “land” includes any estate, term, easement, right or interest in, to, over or affecting land; (“bien-fonds”)
- “Minister” means the Minister of the Environment; (“ministre”)
- “Ministry” means the Ministry of the Environment; (“ministère”)
- “municipality” includes a local board, as defined in the *Municipal Affairs Act*, and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; (“municipalité”)
- “municipal representative” means, with respect to a municipality, an officer, employee or agent of the municipality, or a lawyer, consultant or other advisor of the municipality who is acting on behalf of the municipality; (“représentant municipal”)
- “natural environment” has the same meaning as in the *Environmental Protection Act*; (“environnement naturel”)
- “owner” means a municipality or person having authority to construct, maintain, operate, repair, improve or extend water works or sewage works; (“propriétaire”)
- “person” includes a municipality; (“personne”)
- “place” includes a building, structure, machine, vehicle or vessel; (“lieu”)
- “project” means water works or sewage works provided for in an agreement under section 63; (“ouvrage”)
- “Province” means the Province of Ontario; (“province”)
- “provincial officer” means a person who is designated under section 5; (“agent provincial”)

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

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

“regulated person” means,

- (a) a person who belongs to a class of persons prescribed by the regulations and who holds or is required to hold,
 - (i) an approval, licence or permit under this Act, or
 - (ii) an environmental compliance approval, certificate of property use, licence or permit under the *Environmental Protection Act*,
- (b) a person who has registered or is required to register an activity under subsection 20.21 (1) of the *Environmental Protection Act*, or
- (c) a corporation that belongs to a class of corporations prescribed by the regulations; (“personne réglementée”)

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

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

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

“sewage” includes drainage, storm water, commercial wastes and industrial wastes and such other matter or substance as is specified by the regulations; (“eaux d’égout”)

“sewage works” means any works for the collection, transmission, treatment and disposal of sewage or any part of such works, but does not include plumbing to which the *Building Code Act, 1992* applies; (“station d’épuration des eaux d’égout”)

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

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

“waters” means a well, lake, river, pond, spring, stream, reservoir, artificial watercourse, intermittent watercourse, ground water or other water or watercourse; (“eaux”)

“water distribution system” means a part of a water treatment or distribution system that distributes water, if that part of the system includes one or more water works; (“système de distribution de l’eau”)

“water treatment or distribution system” means a system for collecting, producing, treating, storing, supplying or distributing water that includes one or more water works; (“système de traitement ou de distribution de l’eau”)

“water works” means any works for the collection, production, treatment, storage, supply and distribution of water, or any part of such works, but does not include plumbing to which the *Building Code Act, 1992* applies; (“station de purification de l’eau”)

“well” means a hole made in the ground to locate or to obtain ground water or to test or to obtain information in respect of ground water or an aquifer, and includes a spring around or in which works are made or equipment is installed for collection or transmission of water and that is or is likely to be used as a source of water for human consumption. (“puits”) R.S.O. 1990, c. O.40, s. 1; 1992, c. 23, s. 39 (1); 1993, c. 23, s. 73 (1, 2); 1998, c. 35, s. 44; 2000, c. 22, s. 2 (1); 2000, c. 26, Sched. E, s. 5; 2000, c. 26, Sched. F, s. 13 (1, 2); 2001, c. 9, Sched. G, s. 6 (1-5); 2001, c. 17, s. 5 (1); 2002, c. 17, Sched. F, Table; 2005, c. 12, s. 2 (1, 2); 2007, c. 12, s. 1 (2); 2009, c. 19, s. 70 (1); 2010, c. 16, Sched. 7, s. 3 (1, 2).

Health or safety

(2) For the purposes of this Act, a danger to existing water supplies that are used for human consumption shall be deemed to be a danger to the health or safety of persons. 2001, c. 17, s. 5 (2).

Deemed impairment

(3) For the purposes of this Act, the quality of water shall be deemed to be impaired by the discharge of material if the material or a derivative of the material enters or may enter the water, directly or indirectly, and,

- (a) the material or derivative causes or may cause injury to or interference with any living organism that lives in or comes into contact with,
 - (i) the water, or
 - (ii) soil or sediment that is in contact with the water;
- (b) the material or derivative causes or may cause injury to or interference with any living organism as a result of it using or consuming,
 - (i) the water,
 - (ii) soil or sediment that is in contact with the water, or
 - (iii) any organism that lives in or comes into contact with the water or soil or sediment that is in contact with the water;
- (c) the material or derivative causes or may cause a degradation in the appearance, taste or odour of the water;
- (d) a scientific test that is generally accepted as a test of aquatic toxicity indicates that the material or derivative, in diluted or undiluted form, is toxic;
- (e) peer-reviewed scientific publications indicate that the material or derivative causes injury to or interference with organisms that are dependent on aquatic ecosystems; or
- (f) the material or derivative has a prescribed characteristic or is a prescribed material. 2005, c. 12, s. 2 (3).

Same

(4) For the purposes of this Act, water shall be deemed to be impaired if the quality of the water is deemed to be impaired. 2005, c. 12, s. 2 (3).

Same

(5) Subsections (3) and (4) apply to all water, including the water of any water, watercourse or other waters. 2005, c. 12, s. 2 (3).

Consumptive use

(6) For the purposes of this Act, if water is taken from a water basin described in subsection 34.3 (1), the portion that, as a result of evaporation, incorporation in a product or any other process, is not returned to that basin is lost through consumptive use. 2007, c. 12, s. 1 (3).

Water taking

(7) For the purposes of this Act, a reference to water taking includes water taking by means of,

- (a) a well;
- (b) an intake from a surface source of supply;
- (c) a structure or works constructed for the diversion or storage of water; or
- (d) any combination of the means referred to in clauses (a), (b) and (c). 2007, c. 12, s. 1 (3).

Section Amendments with date in force (d/m/y)

1992, c. 23, s. 39 (1) - 1/07/1993; 1993, c. 23, s. 73 (1) - 15/11/1993; 1998, c. 35, s. 44 - 1/02/1999

2000, c. 22, s. 2 (1) - 21/11/2000; 2000, c. 26, Sched. E, s. 5 - 6/12/2000; 2000, c. 26, Sched. F, s. 13 (1, 2) - 6/12/2000

2001, c. 9, Sched. G, s. 6 (1-5) - 29/06/2001; 2001, c. 17, s. 5 (1, 2) - 1/12/2002

2002, c. 17, Sched. F, Table - 1/01/2003

2005, c. 12, s. 2 (1, 2) - 1/08/2007; 2005, c. 12, s. 2 (3) - 13/06/2005

2007, c. 12, s. 1 (2, 3) - 4/06/2007

2009, c. 19, s. 70 (1) - 1/01/2010

2010, c. 16, Sched. 7, s. 3 (1, 2) - 31/10/2011

The Crown

2 This Act binds the Crown. R.S.O. 1990, c. O.40, s. 2.

Section Amendments with date in force (d/m/y)

1992, c. 23, s. 39 (2) - See 1997, c. 24, s. 224 (19) - 17/06/1998

ADMINISTRATION

Administration

3 The Minister is responsible for the administration of this Act. 1993, c. 23, s. 73 (3).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (3) - 15/11/1993

Rates

4 Every power, right, privilege and discretion with respect to rates under agreements made under subsection 10 (2) and subsection 63 (3) may be exercised by the Agency. R.S.O. 1990, c. O.40, s. 4; 1993, c. 23, s. 73 (4).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (4) - 15/11/1993

Appointments

Directors

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

1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
2. Subject to the approval of the Lieutenant Governor in Council, any other persons or the members of any other classes of persons. 2009, c. 33, Sched. 15, s. 8 (1).

Limitations

(2) The Minister, in an appointment under subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. O.40, s. 5 (2).

Provincial officers and Agency inspectors

(3) The Minister or the Agency may designate in writing one or more of the following persons as provincial officers or inspectors for the purposes of this Act and the regulations:

1. In the case of the Minister, a public servant employed under Part III of the *Public Service of Ontario Act, 2006* who works in the Ministry.
2. In the case of the Agency, an employee of the Agency. 2006, c. 35, Sched. C, s. 105 (2).

Provincial officers

(4) A provincial officer is a peace officer for the purpose of enforcing this Act.

Investigation and prosecution

(5) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act. 1998, c. 35, s. 45.

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (5) - 15/11/1993; 1998, c. 35, s. 45 - 1/02/1999

2006, c. 35, Sched. C, s. 105 (1, 2) - 20/08/2007

2009, c. 33, Sched. 15, s. 8 (1) - 15/12/2009

6 REPEALED: 1993, c. 23, s. 73 (6).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (6) - 15/11/1993

Hearing before Tribunal

7 (1) Upon receipt of a notice from a Director under subsection 74 (4), the Tribunal shall hold a hearing with respect to the subject-matter of the notice, unless subsection 8 (2) applies. R.S.O. 1990, c. O.40, s. 7 (1); 2000, c. 26, Sched. F, s. 13 (13); 2010, c. 16, Sched. 7, s. 3 (3).

Parties

(2) The applicant, the Director and any other persons specified by the Tribunal shall be parties to the hearing. R.S.O. 1990, c. O.40, s. 7 (2); 2000, c. 26, Sched. F, s. 13 (13).

(3) REPEALED: 2000, c. 26, Sched. F, s. 13 (3).

Decision

(4) The Tribunal shall serve notice of its decision, together with reasons therefor, on the parties to the hearing, and the Director shall implement the decision. R.S.O. 1990, c. O.40, s. 7 (4); 2000, c. 26, Sched. F, s. 13 (13).

Costs

(5) The Tribunal may award the costs of a proceeding under this section. 2000, c. 26, Sched. F, s. 13 (4).

Payment

(6) The Tribunal may order to whom and by whom the costs are to be paid. 2000, c. 26, Sched. F, s. 13 (4).

Assessment

(7) The Tribunal may fix the amount of the costs or direct that the amount be assessed and it may direct the scale according to which they are to be assessed and by whom they are to be assessed. 2000, c. 26, Sched. F, s. 13 (4).

Considerations not limited

(8) In awarding costs, the Tribunal is not limited to the considerations that govern awards of costs in any court. 2000, c. 26, Sched. F, s. 13 (4).

Application

(9) Subsections (5) to (8) apply despite sections 17.1 and 32 of the *Statutory Powers Procedure Act*. 2000, c. 26, Sched. F, s. 13 (4).

Transition

(10) If, before the day subsection 3 (1) of Schedule 7 to the *Open for Business Act, 2010* comes into force, a hearing has been required and a notice of objection has been served in accordance with subsection 8 (1), the hearing shall be held under section 20.15 of the *Environmental Protection Act*. 2010, c. 16, Sched. 7, s. 3 (4).

Same

(11) If, on the day subsection 3 (1) of Schedule 7 to the *Open for Business Act, 2010* comes into force, the time period during which a notice of objection may be served under subsection 8 (1) has not lapsed, the Tribunal shall refer the subject matter of the notice back to the Director and the Director shall determine whether or not to require a hearing under section 20.15 of the *Environmental Protection Act*. 2010, c. 16, Sched. 7, s. 3 (4).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (3, 4, 13) - 6/12/2000

2010, c. 16, Sched. 7, s. 3 (3, 4) - 31/10/2011

Notice of objection

8 (1) Where the Tribunal has given notice of a hearing under this Act, any person objecting to the order referred to in subsection 74 (2) may serve notice of the objection, together with the reasons in support of it, on the Tribunal within fifteen days after the notice of hearing is given. R.S.O. 1990, c. O.40, s. 8 (1); 2000, c. 26, Sched. F, s. 13 (13); 2010, c. 16, Sched. 7, s. 3 (5).

Hearing not required

(2) If no objections are received within the fifteen days, or if the Tribunal is of the opinion that the objections are insufficient, the Tribunal is not required to hold a hearing. R.S.O. 1990, c. O.40, s. 8 (2); 2000, c. 26, Sched. F, s. 13 (13).

Extension

(3) Where the Tribunal considers it appropriate in the circumstances, it may extend the period provided under subsection (1) for serving an objection. R.S.O. 1990, c. O.40, s. 8 (3); 2000, c. 26, Sched. F, s. 13 (13).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2010, c. 16, Sched. 7, s. 3 (5) - 31/10/2011

Appeal from Tribunal decision

9 A party to a proceeding under section 7 may appeal from the Tribunal's decision on a question of law to the Divisional Court. 2009, c. 33, Sched. 2, s. 55 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (5, 13) - 6/12/2000

2009, c. 33, Sched. 2, s. 55 (1) - 15/12/2009

No appeal to Lieutenant Governor in Council

Definition

9.1 (1) In this section,

“old section 9” means section 9 as it read immediately before the day the *Good Government Act, 2009* received Royal Assent. 2009, c. 33, Sched. 2, s. 55 (1).

Not subject to appeal

(2) Every decision of the Tribunal that is the subject of an appeal to the Lieutenant Governor in Council under the old section 9 that is not disposed of or withdrawn before the day the *Good Government Act, 2009* receives Royal Assent is deemed not to be subject to appeal to the Lieutenant Governor in Council, and shall not be considered or continue to be considered, as the case may be, by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 55 (1).

Same

(3) Every decision of the Tribunal that may be the subject of an appeal to the Lieutenant Governor in Council under the old section 9 is deemed not to be subject to appeal to the Lieutenant Governor in Council, and shall not be considered by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 55 (1).

No effect on validity

(4) Nothing in this section affects the validity of a decision of the Tribunal that, but for subsection 55 (1) of Schedule 2 to the *Good Government Act, 2009*, was or could have been the subject of an appeal to the Lieutenant Governor in Council under the old section 9. 2009, c. 33, Sched. 2, s. 55 (1).

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 2, s. 55 (1) - 15/12/2009

Functions of Minister, Agency and Directors

Minister's functions

10 (1) Despite any other Act, it is the function of the Minister and he or she has power,

- (a) REPEALED: 1993, c. 23, s. 73 (7).
- (b) REPEALED: 1993, c. 23, s. 73 (7).
- (c) to conduct research programs and to prepare statistics for his or her purpose;
- (d) to disseminate information and advice with respect to the collection, production, transmission, treatment, storage, supply and distribution of water or sewage; and
- (e) to perform such functions or discharge such duties as may be assigned from time to time by the Lieutenant Governor in Council. R.S.O. 1990, c. O.40, s. 10 (1); 1993, c. 23, s. 73 (7).

Agency power to make agreements

(2) Despite any other Act, the Agency may make agreements for the provision of water service or sewage service. 1993, c. 23, s. 73 (8).

Power of Director

(3) Despite any other Act, it is the function of a Director and he or she has power to control and regulate the collection, production, treatment, storage, transmission, distribution and use of water for public purposes and to make orders with respect thereto. R.S.O. 1990, c. O.40, s. 10 (3).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (7, 8) - 15/11/1993

Agreements under s. 10

11 Any municipality may enter into agreements with the Agency under subsection 10 (2), and subsections 63 (5) to (8), section 65 and subsection 67 (5) apply with necessary modifications to such agreements. R.S.O. 1990, c. O.40, s. 11; 1993, c. 23, s. 73 (9); 2001, c. 9, Sched. G, s. 6 (6).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (9) - 15/11/1993

2001, c. 9, Sched. G, s. 6 (6) - 29/06/2001

Municipal powers

12 The Agency may for its purposes exercise any or all of the powers that are conferred by any general Act upon a municipality respecting the establishment, construction, maintenance or operation of water works or sewage works. R.S.O. 1990, c. O.40, s. 12; 1993, c. 23, s. 73 (10).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (10) - 15/11/1993

Action under Act, successors, etc., bound, records

Successors and assigns

13 (1) An approval, direction, notice, order, report or requirement of a court, the Minister, the Director, a provincial officer or the Agency under this Act is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed. 2001, c. 17, s. 5 (3).

Limitation

(2) If, pursuant to subsection (1), a direction, notice or order is binding on an executor, administrator, administrator with the will annexed, guardian of property or attorney for property, their obligation to incur costs to comply with the direction, notice or order is limited to the value of the assets they hold or administer, less their reasonable costs of holding or administering the assets. 2001, c. 17, s. 5 (3).

Receivers and trustees

(3) An approval, direction, notice, order, report or requirement of a court, the Minister, the Director, a provincial officer or the Agency under this Act that relates to property is binding on a receiver or trustee that holds or administers the property. 2001, c. 17, s. 5 (3).

Limitation

(4) If, pursuant to subsection (3), a direction, notice, order or report is binding on a trustee, other than a trustee in bankruptcy, the trustee's obligation to incur costs to comply with the direction, notice, order or report is limited to the value of the assets held or administered by the trustee, less the trustee's reasonable costs of holding or administering the assets. 2001, c. 17, s. 5 (3).

Exception

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

- (a) within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the direction, notice or order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property; or
- (b) the direction, notice or order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 5 (3); 2006, c. 19, Sched. K, s. 3 (1).

Extension of period

(6) The Director may extend the 10-day period for giving notice under clause (5) (a), before or after it expires, on such terms and conditions as he or she considers appropriate. 2001, c. 17, s. 5 (3).

Notice under subs. (5)

(7) Notice under clause (5) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 19 (7) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (3).

(8)-(11) REPEALED: 2007, c. 12, s. 1 (4).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (3) - 1/12/2002

2006, c. 19, Sched. K, s. 3 (1) - 22/06/2006

2007, c. 12, s. 1 (4) - 4/06/2007

Index record re instruments

13.1 (1) The Ministry shall maintain an alphabetical index record of the names of all persons to whom instruments are directed under this Act. 2007, c. 12, s. 1 (5).

Expiry, etc.

(2) When an instrument has expired or is revoked or set aside, the Ministry shall note that fact in the index record. 2007, c. 12, s. 1 (5).

Search of index record

(3) The Ministry shall, on any person's request,

- (a) make a search of the index record and inform the person making the request whether the name of a particular person appears in the index record; and
- (b) permit inspection of any instrument directed to that person. 2007, c. 12, s. 1 (5).

Definition

(4) In this section,

“instrument” means an approval, permit, licence, direction, notice, order or report. 2007, c. 12, s. 1 (5).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (5) - 4/06/2007

Right to lay and maintain pipes under roads

14 (1) The Agency, its employees and agents may, for the Agency's purposes, without consent and without compensation, lay, maintain, repair, alter or replace the pipes and appurtenances to them that the Agency considers necessary in, upon, through, over and under a highway or road under the jurisdiction and control of any public authority.

Right to use unopened road allowances

(2) The Agency, its employees and agents may use unopened road allowances to obtain access to water works and sewage works.

Appurtenances above surface

(3) The Agency, its employees and agents may, with the consent of the public authority having jurisdiction and control of the highway or road, including an unopened road allowance, leave appurtenances above the surface of the highway, road or unopened road allowance in locations agreed to by the authority.

Land, etc., to be restored

(4) Lands, buildings, highways or roads disturbed by the exercise of any of the powers mentioned in subsection (1), (2), or (3) shall be restored to their original condition, or as near to it as possible, without unnecessary delay. 1998, c. 35, s. 46.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 46 - 1/02/1999

2007, c. 10, Sched. D, s. 2 (2) - 4/06/2007

Inspection by provincial officer

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

- (a) entering any part of the natural environment to ascertain the extent, if any, to which any material of any kind has impaired any waters, the causes of any impairment, and how any impairment may be prevented, eliminated or ameliorated and the waters and natural environment restored;
- (b) entering any part of the natural environment to ascertain the quality or quantity of any waters;
- (c) entering any place in or from which the provincial officer reasonably believes a material that may impair the quality of any waters is being, has been or may be discharged,
 - (i) into or in any waters,
 - (ii) onto any shore or bank of any waters, or
 - (iii) into any part of the natural environment;
- (c.1) entering any place in which the provincial officer reasonably believes can be found anything that is governed or regulated under this Act or anything the dealing with which is governed or regulated under this Act;
- (d) entering any place that the provincial officer reasonably believes is likely to contain documents related to,
 - (i) an activity or undertaking that is, or is required to be, the subject of a permit, licence, approval, requirement, direction, report, notice, agreement or order under this Act,
 - (ii) an activity or undertaking that is exempted by a regulation from any requirement to have a permit, licence or approval under this Act and that is regulated by the provisions of the regulation, or
 - (iii) the discharge of a material of any kind that may impair the quality or quantity of any waters; and
- (e) entering any place that the provincial officer reasonably believes,
 - (i) is, or is required to be, subject to or referred to in a permit, licence, approval, requirement, direction, report, notice, agreement or order under this Act, or
 - (ii) is subject to or referred to in a regulation that provides for an exemption from any requirement to have a permit, licence or approval under this Act, where the regulation includes provisions that regulate the place. 1998, c. 35, s. 47; 2005, c. 12, s. 2 (4); 2009, c. 19, s. 70 (2).

Same

- (2) During an inspection under subsection (1), the provincial officer may,
- (a) make necessary excavations;
 - (b) require that any thing be operated, used or set in motion under conditions specified by the provincial officer;
 - (c) take samples for analysis;
 - (d) conduct tests or take measurements;
 - (e) examine, record or copy any document or data, in any form, by any method;
 - (f) record the condition of a place or the natural environment by means of photograph, video recording or other visual recording;
 - (g) require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purposes of the inspection;
 - (h) remove from a place documents or data, in any form, produced under clause (g) for the purpose of making copies; and

(i) make reasonable inquiries of any person, orally or in writing. 1998, c. 35, s. 47.

Limitation re photographs, recordings

(3) A record made under clause (2) (f) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 1998, c. 35, s. 47.

Limitation re removal of documents, data

(4) A provincial officer shall not remove documents or data under clause (2) (h) without giving a receipt for them and shall promptly return the documents or data to the person who produced them. 1998, c. 35, s. 47.

Power to exclude persons

(5) A provincial officer who exercises the power set out in clause (2) (i) may exclude from the questioning any person except counsel for the individual being questioned. 1998, c. 35, s. 47; 2009, c. 33, Sched. 15, s. 8 (2).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 47 - 1/02/1999

2005, c. 12, s. 2 (4) - 13/06/2005

2007, c. 10, Sched. D, s. 2 (2) - 4/06/2007

2009, c. 19, s. 70 (2) - 1/01/2010; 2009, c. 33, Sched. 15, s. 8 (2) - 15/12/2009

Power to require response to inquiries

15.0.1 (1) For the purposes of determining compliance of a person with this Act or the regulations, a provincial officer may, at any reasonable time and with any reasonable assistance, require the person, or any person employed by or providing services to the person, to respond to reasonable inquiries. 2010, c. 16, Sched. 7, s. 3 (6).

Same

(2) For the purposes of subsection (1), a provincial officer may make inquiries by telephone or by any other means of communication. 2010, c. 16, Sched. 7, s. 3 (6).

Production of document

(3) In requiring a person to respond to an inquiry under subsection (1), a provincial officer may require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purpose of the inquiry. 2017, c. 2, Sched. 11, s. 4 (1).

Records in electronic form

(4) If a record is retained in electronic form, a provincial officer may require that a copy of it be provided to him or her on paper or electronically, or both. 2017, c. 2, Sched. 11, s. 4 (1).

Section Amendments with date in force (d/m/y)

2010, c. 16, Sched. 7, s. 3 (6) - 25/10/2010

2017, c. 2, Sched. 11, s. 4 (1) - 22/03/2017

Inspection of vehicles and vessels

15.1 (1) In this section,

“vehicle” includes a trailer or other equipment attached to the vehicle. 1998, c. 35, s. 47.

Requirement to stop

(2) For the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop. 1998, c. 35, s. 47.

Same

(3) On the provincial officer’s signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop. 1998, c. 35, s. 47.

Same

(4) For the purposes of this section, a signal to stop includes,

(a) intermittent flashes of red light, in the case of a vehicle;

- (b) intermittent flashes of blue light, in the case of a vessel; and
- (c) a hand signal to stop by a provincial officer who is readily identifiable as a provincial officer. 1998, c. 35, s. 47.

Sign to report

(5) Where a clearly marked sign is posted indicating that a class of vehicles or vessels should report to a certain place in the vicinity of the sign, the operator of a vehicle or vessel that passes the sign and that falls within the class of vehicles or vessels indicated shall report forthwith to the place the sign directs. 1998, c. 35, s. 47.

Same

(6) Where the operator of a vehicle or vessel stops under subsection (3) or reports under subsection (5), the provincial officer may make any reasonable inquiries of the operator and the operator shall produce for inspection any documents related to the operation or ownership of the vehicle or vessel, including licenses, permits and any documents that are required to be kept by the law of any jurisdiction in relation to the carriage of any cargo or container. 1998, c. 35, s. 47.

Inspection powers

(7) Based on questioning or examination of documents conducted under subsection (6), the provincial officer may, without warrant or court order, inspect any means of containment that the provincial officer reasonably believes is being used for the handling or transportation of a thing the handling or transportation of which is governed or regulated under this Act. 1998, c. 35, s. 47; 2009, c. 19, s. 70 (3).

Same

(8) As part of an inspection under subsection (7), the provincial officer may open or require the operator to open any cargo hold, container or other means of containment. 1998, c. 35, s. 47.

Same

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise such powers under subsection 15 (2) as are reasonably required for the administration of this Act or the regulations. 1998, c. 35, s. 47.

Same

(10) Subsections 15 (3), (4) and (5) apply to the exercise of a power under subsection (9). 1998, c. 35, s. 47.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 47 - 1/02/1999

2009, c. 19, s. 70 (3) - 1/01/2010

Power to administer other Acts

15.2 A provincial officer who exercises any power set out in section 15, 15.1, 19, 20 or 20.1 may, if the provincial officer is designated as such under the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002* or the *Toxics Reduction Act, 2009*, as the case may be, do anything authorized by,

- (a) section 156, 156.1, 160, 161 or 161.1 of the *Environmental Protection Act*;
- (b) section 13, 14 or 23 of the *Nutrient Management Act, 2002*;
- (c) section 19, 19.1, 22, 23 or 23.1 of the *Pesticides Act*;
- (d) section 81, 82, 91, 92 or 93 of the *Safe Drinking Water Act, 2002*; or
- (e) section 15, 20 or 21 of the *Toxics Reduction Act, 2009*. 2009, c. 19, s. 70 (4).

Note: On the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force, clause (e) is amended by striking out “section 15, 20 or 21” at the beginning and substituting “section 15, 15.1, 20, 20.1 or 21”. See: 2009, c. 19, ss. 70 (5), 73 (2).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 47 - 1/02/1999

2002, c. 4, s. 65 (1) - 1/07/2003

2007, c. 10, Sched. D, s. 2 (1) - 4/06/2007

2009, c. 19, s. 70 (4) - 1/01/2010; 2009, c. 19, s. 70 (5) - not in force

Entry to dwellings

15.3 A person shall not exercise a power conferred by this Act to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order under section 17. 1998, c. 35, s. 47.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 47 - 1/02/1999

Identification

15.4 On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer either by the production of a copy of his or her designation or in some other manner and shall explain the purpose of the exercise of the power. 1998, c. 35, s. 48.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 48 - 1/02/1999

Entry, etc., may be prohibited

15.5 (1) A provincial officer may by order prohibit entry into all or part of any land or place or prohibit the use of, interference with, disruption of, or destruction of any thing in any of the following circumstances:

1. During an inspection under section 15, 15.1 or 17.
2. During a search under section 20.
3. During the time required for the provincial officer to obtain an order under section 17 of this Act or a warrant under section 158 of the *Provincial Offences Act*.
4. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*.

Requirements for order

- (2) An order under subsection (1) shall not be issued unless the provincial officer reasonably believes that,
- (a) in the case of an order prohibiting entry, there is on the land or in the place a thing that will afford evidence of an offence under this Act;
 - (b) in the case of an order prohibiting the use of, interference with, disruption of, or destruction of a thing, the thing will afford evidence of an offence under this Act; or
 - (c) in the case of an order prohibiting entry or an order prohibiting the use of, interference with, disruption of, or destruction of a thing, there is a discharge or a likelihood of discharge of any material into the natural environment from the land, place or thing and an impairment of waters has resulted or may result from the discharge.

Notice of order

(3) The provincial officer shall give notice of the order in the manner that he or she considers appropriate in the circumstances.

Contents of notice

(4) Notice of the order shall include an explanation of the rights provided by subsections (6) and (7).

Order not effective where no notice

(5) An order under subsection (1) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order.

Request for rescission

(6) A person aggrieved by the order may make an oral or written request to the Director to rescind it and may make oral or written submissions to the Director in support of the request.

Powers of Director

(7) The Director shall give prompt consideration to any request or submissions made under subsection (6) and may rescind the order.

Same

(8) For the purposes of subsection (7), the Director may substitute his or her own opinion for that of the provincial officer.

Same

(9) A Director who rescinds an order under subsection (7) shall give such directions to a provincial officer as the Director considers appropriate to bring the rescission to the attention of persons affected.

No stay

(10) A request for rescission of an order under subsection (1) does not stay the order, unless the Director orders otherwise in writing.

Duration of order

(11) An order under subsection (1) shall,

- (a) subject to clause (b), be effective for the shorter of the length of time necessary to complete the inspection or search referred to in that subsection or a period not exceeding two days excluding holidays; or
- (b) where the inspection or search referred to in subsection (1) is under section 17 of this Act or under a warrant issued under section 158 of the *Provincial Offences Act* and a time limit for the inspection or search is specified in the order or warrant, be effective until the expiration of that time. 1998, c. 35, s. 48.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 48 - 1/02/1999

Order of justice prohibiting entry, or use, etc., of things

15.6 (1) Where a justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground for believing that it is appropriate for the administration of this Act or the regulations or necessary to protect human health or safety or to protect property, the justice may issue an order prohibiting entry into all or part of any land or place or prohibiting the use of, interference with, disruption of, or destruction of any thing. 1998, c. 35, s. 48.

Same

(2) The prohibition under the justice's order shall, subject to subsection (3), be for such period of time as is set out in the order. 1998, c. 35, s. 48.

Expiry

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order or the day that is 30 days after the date on which the order is made. 1998, c. 35, s. 48; 2009, c. 33, Sched. 15, s. 8 (3).

Renewal

(4) An order under this section may be renewed for any reason set out in subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 1998, c. 35, s. 48.

Notice of application

(5) An initial order under subsection (1) may be issued on application without notice. 1998, c. 35, s. 48.

Same

(6) A renewal order under subsection (4) may be issued on application made with such notice, if any, as is specified for the purpose under subsection (7). 1998, c. 35, s. 48.

Same

(7) In an order under subsection (1) or (4), a justice may specify notice requirements that must be met by a person applying for a renewal of the order or for a further renewal of the order, as the case may be. 1998, c. 35, s. 48.

Notice of order

(8) A provincial officer may give notice of an order under subsection (1) or (4) in the manner that he or she considers appropriate in the circumstances. 1998, c. 35, s. 48.

Order not effective where no notice

(9) An order under subsection (1) or (4) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order. 1998, c. 35, s. 48.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 48 - 1/02/1999

2009, c. 33, Sched. 15, s. 8 (3) - 15/12/2009

Securing of place, thing

15.7 Where an order under section 15.5 or 15.6 is in effect, a provincial officer may take measures to secure the land, place or thing to which the order relates by means of locks, gates, fences, security guards or such other means as the provincial officer deems necessary to prevent entry into the land or place or to prevent the use of, interference with, disruption of, or destruction of the thing. 1998, c. 35, s. 48.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 48 - 1/02/1999

Order by provincial officer: contraventions

16 (1) A provincial officer may issue an order to any person that the provincial officer reasonably believes is contravening or has contravened,

- (a) a provision of this Act or the regulations;
- (b) a provision of an order, notice, direction, requirement or report made under this Act, other than an order under section 84 or 106.1 or an order of a court; or
- (c) a term or condition of a licence, permit or approval made under this Act. 1998, c. 35, s. 49; 2005, c. 12, s. 2 (5); 2009, c. 33, Sched. 15, s. 8 (4).

Information to be included in order

- (2) The order shall,
 - (a) specify the provision, term or condition that the provincial officer believes is being or has been contravened;
 - (b) briefly describe the nature and, where applicable, the location of the contravention;
- (b.1) in the case of a contravention of subsection 30 (1) for which an order to pay an environmental penalty could be issued, describe how the contravention may impair the quality of the water of any waters; and
- (c) state that a review of the order may be requested in accordance with section 16.4. 1998, c. 35, s. 49; 2005, c. 12, s. 2 (6).

What order may require

(3) The order may require the person to whom it is directed to comply with any directions set out in the order within the time specified relating to,

- (a) achieving compliance with the provision, term or condition;
- (b) preventing the continuation or repetition of the contravention;
- (c) the securing, whether through locks, gates, fences, security guards or other means, of any land, place or thing;
- (d) the repair, maintenance or operation of water works or sewage works in such manner and with such facilities as are specified in the order;
- (e) the removal of sewage or any thing contaminated by sewage;
- (f) sampling, analysis or reporting with respect to the quality or quantity of any waters;
- (g) where the contravention has caused damage to or endangered or is likely to cause damage to or endanger existing water supplies, providing temporary or permanent alternate water supplies;
- (h) submitting a plan for achieving compliance with the provision, term or condition, including the engagement of contractors or consultants satisfactory to a provincial officer;
- (i) submitting an application for an approval, licence or permit;
- (i.1) registering an activity under Part II.2 of the *Environmental Protection Act*;
- (j) monitoring and recording in relation to the natural environment and waters and reporting on the monitoring and recording; and
- (k) posting notice of the order. 1998, c. 35, s. 49; 2005, c. 12, s. 2 (7); 2010, c. 16, Sched. 7, s. 3 (7).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 49 - 1/02/1999

2005, c. 12, s. 2 (5, 7) - 13/06/2005; 2005, c. 12, s. 2 (6) - 1/08/2007

2009, c. 33, Sched. 15, s. 8 (4) - 15/12/2009

2010, c. 16, Sched. 7, s. 3 (7) - 31/10/2011

Order by provincial officer re preventive measures

16.1 (1) A provincial officer who reasonably believes that it is in the public interest to do so may issue an order to any person who owns, manages or has control of a facility, including a sewage works or water works, that may discharge material into any water or watercourse that may impair the quality of water. 1998, c. 35, s. 49; 2009, c. 33, Sched. 15, s. 8 (5).

Information to be included in order

(2) The order shall,

- (a) briefly describe the reasons for the order and the circumstances on which the reasons are based; and
- (b) state that a review of the order may be requested in accordance with section 16.4. 1998, c. 35, s. 49.

What the order may require

(3) The order may require the person to whom it is directed to comply with any directions specified under subsection (4), within the time specified in the order. 1998, c. 35, s. 49.

Same

(4) The following directions may be specified in the order:

1. Any direction listed in section 32.
2. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing. 1998, c. 35, s. 49.

Where order requires report

(5) Where the order requires a person to make a report, the report shall be made to a provincial officer. 1998, c. 35, s. 49.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 49 - 1/02/1999

2009, c. 33, Sched. 15, s. 8 (5) - 15/12/2009

Order by provincial officer re sewage works or water works

16.2 (1) A provincial officer who reasonably believes that it is in the public interest to do so may issue an order to any person who owns, manages or has control of a sewage works. 1998, c. 35, s. 49; 2007, c. 10, Sched. D, s. 2 (3).

Information to be included in order

(2) The order shall,

- (a) briefly describe the reasons for the order and the circumstances on which the reasons are based; and
- (b) state that a review of the order may be requested in accordance with section 16.4. 1998, c. 35, s. 49.

What the order may require

(3) The order may require the person to whom it is directed to comply with any directions under subsection (4), within the time specified. 1998, c. 35, s. 49.

Same

(4) The following directions may be specified in the order:

1. A direction to secure, whether through locks, gates, fences, security guards or other means, any land, place or thing.
2. A direction to repair, maintain and operate sewage works in such manner and with such facilities as are specified in the order.
3. A direction to sample, analyze and report with respect to the quality or quantity of any waters. 1998, c. 35, s. 49; 2007, c. 10, Sched. D, s. 2 (4).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 49 - 1/02/1999

2007, c. 10, Sched. D, s. 2 (3, 4) - 4/06/2007

Amendment or revocation of order

16.3 (1) An order issued under section 16, 16.1 or 16.2 may, by order, be amended or revoked by the provincial officer who issued it or by the Director.

Same

(2) A provincial officer or Director who amends or revokes an order shall give written notice of the amendment or revocation to the person to whom the order is directed. 1998, c. 35, s. 49.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 49 - 1/02/1999

Review of orders

16.4 (1) A person to whom an order under section 16, 16.1, 16.2 or 16.3 is directed may, within seven days after being served with a copy of the order, request that the Director review the order. 1998, c. 35, s. 49.

Manner of making request

(2) The request may be made orally, with written confirmation served on the Director within the time specified in subsection (1), or in writing. 1998, c. 35, s. 49.

Contents of request for review

(3) A written request for review under subsection (1) or a written confirmation of an oral request under subsection (2) shall include,

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the applicant for the review wishes the Director to consider; and
- (c) for the purpose of subsection (7), an address for service by mail or by electronic facsimile transmission or by such other means of service as the regulations may prescribe. 1998, c. 35, s. 49.

No automatic stay

(4) The request for review does not stay the order, unless the Director orders otherwise in writing. 1998, c. 35, s. 49.

Decision of Director

(5) A Director who receives a request for review may,

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person requesting the review, confirm or amend the order of the provincial officer. 1998, c. 35, s. 49.

Same

(6) For the purposes of subsection (5), the Director may substitute his or her own opinion for that of the provincial officer. 1998, c. 35, s. 49.

Notice of decision

(7) The Director shall serve the person requesting the review with a copy of,

- (a) a decision to revoke the order of the provincial officer; or
- (b) an order to confirm or amend the order of the provincial officer, together with reasons. 1998, c. 35, s. 49.

Automatic confirmation of order

(8) If, within seven days of receiving a written request for review or a written confirmation of an oral request for review, the Director does not make a decision under subsection (5) and give oral or written notice of the decision to the person requesting the review, the order in respect of which the review is sought shall be deemed to have been confirmed by order of the Director. 1998, c. 35, s. 49.

Same

(9) For the purpose of section 100 and a hearing required under that section, a confirming order deemed to have been made by the Director under subsection (8),

- (a) shall be deemed to be issued to each person to whom the order of the provincial officer was directed; and
- (b) shall be deemed to have been served, on each person to whom the order of the provincial officer was directed, at the expiry of the time period referred to in subsection (8). 1998, c. 35, s. 49; 2000, c. 26, Sched. F, s. 13 (6); 2005, c. 12, s. 2 (8).

Same

(10) Subsections (8) and (9) do not apply if, within seven days of receiving the request for review, the Director stays the order under subsection (4) and gives written notice to the person requesting the review that the Director requires additional time to make a decision under subsection (5). 2005, c. 12, s. 2 (9).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 49 - 1/02/1999

2000, c. 26, Sched. F, s. 13 (6) - 6/12/2000

2005, c. 12, s. 2 (8, 9) - 13/06/2005

Entry or inspection order

17 (1) A justice may issue an order authorizing a provincial officer to do anything set out in subsection 15 (1) or (2) or section 15.1 if the justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground to believe that it is appropriate for the administration of this Act or the regulations for the provincial officer to do anything set out in subsection 15 (1) or (2) or section 15.1 and that the provincial officer may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked or otherwise inaccessible;
- (b) a person has prevented the provincial officer from doing anything set out in subsection 15 (1) or (2) or section 15.1;
- (c) there is reasonable ground to believe that a person may prevent a provincial officer from doing anything set out in subsection 15 (1) or (2) or section 15.1;
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the provincial officer to obtain an order under this section without delay if access is denied; or
- (e) there is reasonable ground to believe that an attempt by the provincial officer to do anything set out in subsection 15 (1) or (2) or section 15.1 without the order,
 - (i) might not achieve its purpose, or
 - (ii) might endanger human health or safety, property or the natural environment. 1998, c. 35, s. 50.

Same

(2) Subsections 15 (3), (4) and (5) apply to an inspection under an order under this section. 1998, c. 35, s. 50.

Expiry

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order and the day that is 30 days after the date on which the order is made. 1998, c. 35, s. 50; 2009, c. 33, Sched. 15, s. 8 (6).

Renewal

(4) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 1998, c. 35, s. 50.

When to be executed

(5) An order under this section shall be carried out between 6 a.m. and 9 p.m., unless the order otherwise authorizes. 1998, c. 35, s. 50.

Application without notice

(6) An order under this section may be issued or renewed on application without notice. 1998, c. 35, s. 50.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 50 - 1/02/1999

2009, c. 33, Sched. 15, s. 8 (6) - 15/12/2009

Samples and copies

18 A provincial officer may detain samples and copies obtained under section 15, 15.1 or 17 for any period and for any of the purposes of this Act and the regulations. R.S.O. 1990, c. O.40, s. 18; 1998, c. 35, s. 51.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 51 - 1/02/1999

Seizure during inspection

19 During an inspection under section 15, 15.1 or 17, a provincial officer may, without a warrant or court order, seize any thing that is produced to the provincial officer or that is in plain view, if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence under this Act;
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence; or
- (c) the thing is discharging or may discharge any material into the natural environment and an impairment of waters has resulted or may result from the discharge. 1998, c. 35, s. 52.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 52 - 1/02/1999

Searches relating to offences

20 (1) In this section,

“offence” means an offence under this Act related to the discharge of any material that may impair the quality of the water of any water or watercourse.

Search by provincial officer re actual pollution

(2) A provincial officer may, without a search warrant, search any place other than a room actually used as a dwelling if the provincial officer has reasonable ground to believe,

- (a) that an offence has been committed;
- (b) that there is in such place any thing that will afford evidence as to the commission of the offence; and
- (c) that there are exigent circumstances that make it impractical to obtain a search warrant. R.S.O. 1990, c. O.40, s. 20 (1, 2).

Seizure during search

(3) During a search under subsection (2), a provincial officer may, without warrant or court order, seize any thing if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence; or
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence and that the seizure is necessary to prevent the continuation or repetition of the offence. 1998, c. 35, s. 53.

(4) REPEALED: 1998, c. 35, s. 53.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 53 - 1/02/1999

Detention or removal

20.1 (1) A provincial officer who seizes any thing under section 19 or 20 may remove the thing or detain it in the place where it is seized.

Receipt

(2) Where possible, a provincial officer shall inform the person from whom a thing is seized under section 19 or 20 as to the reason for the seizure and shall give the person a receipt for the thing seized. 1998, c. 35, s. 54.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 54 - 1/02/1999

Report to justice re: seizure

21 (1) A provincial officer who seizes any thing during an inspection or search under section 19 or 20 shall bring the thing seized before a justice or, if that is not reasonably possible, shall report the seizure to a justice. 1998, c. 35, s. 55.

Procedure

(2) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized by a provincial officer during an inspection or search under section 19 or 20. R.S.O. 1990, c. O.40, s. 21 (2).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 55 - 1/02/1999

Disposition of certain things

21.1 (1) Where the Director believes that, given the nature of a thing seized under section 19 or 20, the thing may pose a risk to human health or safety or to property, the Director may direct the person having custody of the thing, to dispose of the thing in a manner satisfactory to the Director.

Disposition of seized perishables

(2) Where the person having custody of any thing seized under section 19 or 20 believes that the thing will rot, spoil or otherwise perish, the person may dispose of the thing.

Non-application of provision

(3) Section 21 does not apply to a thing disposed of in accordance with this section.

Forfeiture

(4) A thing disposed of in accordance with this section is forfeited to the Crown. 1998, c. 35, s. 56.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 56 - 1/02/1999

Notice of disposal

21.2 (1) Where a thing has been disposed of in accordance with section 21.1, the Director shall ensure that a provincial officer gives written notice of the seizure and disposal within 15 days of the disposal,

- (a) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized; and
- (b) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner. 1998, c. 35, s. 56.

Contents of notice

- (2) Notice under subsection (1) shall include,
- (a) a description of the thing seized sufficient to enable it to be identified;
 - (b) the location at which the thing was seized;
 - (c) the date of the seizure and disposal;
 - (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
 - (e) a statement of the reason for the seizure and disposal;
 - (f) a reference to the statutory provision authorizing the seizure and disposal; and
 - (g) a reference to the statutory provision permitting the person to apply to the Superior Court of Justice for relief against the forfeiture. 1998, c. 35, s. 56; 2001, c. 9, Sched. G, s. 6 (50).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 56 - 1/02/1999

2001, c. 9, Sched. G, s. 6 (50) - 29/06/2001

Forfeiture may be ordered

21.3 (1) On the application of the Director, the Superior Court of Justice may order that a thing seized under section 19 or 20 or under a warrant issued under the *Provincial Offences Act* in connection with the commission or suspected commission of an offence under this Act be forfeited to the Crown. 1998, c. 35, s. 56; 2001, c. 9, Sched. G, s. 6 (50).

Where no order to be made

- (2) No order shall be made under subsection (1) unless the court is satisfied that,
- (a) the seizure was lawful; and
 - (b) no later than seven days before the hearing of the application, written notice was provided by a provincial officer,
 - (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
 - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,
 - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
 - (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 56.

Contents of notice

- (3) Notice under subsection (2) shall include,
- (a) a description of the thing seized sufficient to enable it to be identified;
 - (b) the location at which the thing was seized;
 - (c) the date of the seizure;
 - (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
 - (e) a statement of the reason for the seizure;
 - (f) a reference to the statutory provision authorizing the seizure;
 - (g) a statement that an order for forfeiture of the thing is being sought under this section; and
 - (h) a statement that the person to whom the notice is provided may make submissions to the Superior Court of Justice with respect to the issuance of an order under this section. 1998, c. 35, s. 56; 2001, c. 9, Sched. G, s. 6 (50).

Disposition of things forfeited

- (4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 56.

Relief against forfeiture

(5) A person who had an interest in a thing forfeited under section 21.1 or this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 56; 2001, c. 9, Sched. G, s. 6 (50).

When relief not to be ordered

- (6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,
- (a) has been served with an order requiring the person to pay an environmental penalty in connection with a matter that was associated with the seizure of the thing, unless the order has been revoked; or
 - (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 56; 2005, c. 12, s. 2 (10).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 56 - 1/02/1999

2001, c. 9, Sched. G, s. 6 (50) - 29/06/2001

2005, c. 12, s. 2 (10) - 1/08/2007

Use of force

22 (1) A provincial officer may use such force as is reasonably necessary,

- (a) to carry out an order issued under this Act, other than an order issued by a provincial officer;
- (b) to execute a warrant issued under the *Provincial Offences Act*; or
- (c) to prevent the destruction of any thing that the provincial officer reasonably believes may afford evidence of an offence under this Act. R.S.O. 1990, c. O.40, s. 22; 1998, c. 35, s. 57 (1, 2).

Same

(2) For the purposes of clause (1) (a), an order issued by the Director that confirms or amends an order issued by a provincial officer is not an order issued by a provincial officer. 1998, c. 35, s. 57 (3).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 57 (1-3) - 1/02/1999

Order for use of monitoring device, etc.

22.1 (1) In this section,

“device” means a substance or tracking device that, when placed or installed in or on any place, land or thing, may be used to help ascertain, by electronic or other means, the origin, identity or location of anything.

Order may be issued

(2) On application without notice, a justice may issue an order in writing authorizing a provincial officer, subject to this section, to use any device, investigative technique or procedure or to do any thing described in the order if the justice is satisfied by evidence under oath that there are reasonable grounds to believe that an offence against this Act has been or will be committed and that information concerning the offence will be obtained through the use of the device, technique or procedure or the doing of the thing.

Limitation

(3) An order under this section shall not authorize the interception of any private communication.

Same

(4) No device, technique or procedure shall be used to intercept any private communication under an order issued under this section.

Terms and conditions of order

(5) An order issued under this section shall contain such terms and conditions as the justice considers advisable in the circumstances.

Activities under order

(6) An order issued under this section may authorize a provincial officer,

- (a) to place, install, maintain or remove a device in or on any land, place or thing; and
- (b) to monitor, or to have monitored, a device or information from the device placed or installed in or on any land, place or thing.

Duration of order

(7) An order issued under this section is valid for a period of 60 days or for such shorter period as may be specified in the order.

Further orders

(8) A justice may issue further orders under subsection (2). 1998, c. 35, s. 58.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 58 - 1/02/1999

Restoration

23 A provincial officer who makes or causes the making of an excavation in the course of his or her duties under this Act shall restore the property, so far as is reasonably possible, to the condition it was in before the excavation was made. R.S.O. 1990, c. O.40, s. 23; 2005, c. 12, s. 2 (11).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (11) - 13/06/2005

Licence, etc., condition, permission to inspect

24 It is a condition of every licence, permit or approval under this Act that the holder must forthwith on request permit provincial officers to carry out inspections of any place to which the licence, permit or approval relates, other than a room actually used as a dwelling, if the inspection is authorized by,

- (a) section 15, 15.1 or 17 of this Act;
- (b) section 156, 156.1 or 158 of the *Environmental Protection Act*;
- (c) section 13, 14 or 16 of the *Nutrient Management Act, 2002*;
- (d) section 19, 19.1 or 20 of the *Pesticides Act*;
- (e) section 81, 82 or 89 of the *Safe Drinking Water Act, 2002*; or
- (f) section 15 or 18 of the *Toxics Reduction Act, 2009*. 2007, c. 10, Sched. D, s. 2 (5); 2009, c. 19, s. 70 (6).

Note: On the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force, clause (f) is amended by striking out “section 15 or 18” at the beginning and substituting “section 15, 15.1 or 18”. See: 2009, c. 19, ss. 70 (7), 73 (2).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 59 - 1/02/1999

2002, c. 4, s. 65 (2) - 1/07/2003

2007, c. 10, Sched. D, s. 2 (5) - 4/06/2007

2009, c. 19, s. 70 (6) - 1/01/2010; 2009, c. 19, s. 70 (7) - not in force

Police assistance

25 Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance. 1998, c. 35, s. 60.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 60 - 1/02/1999

Application of Ministry Acts

26 (1) The *Ministry of Government Services Act* and the *Ministry of Infrastructure Act, 2011* do not apply to personal or real property of the Agency acquired for the purpose of a project or for the provision of water or sewage service by the Agency as defined in section 74. 2011, c. 9, Sched. 27, s. 36.

Disposition of surplus property

(2) Subject to the approval of the Minister and the Minister of Infrastructure, the Ontario Infrastructure and Lands Corporation may dispose of real property referred to in subsection (1) that is surplus to the needs of the Province. 2011, c. 9, Sched. 27, s. 36.

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (15) - 15/11/1993

2011, c. 9, Sched. 27, s. 36 - 6/06/2011

Instruments creating rights analogous to easements

27 (1) A right or interest in, over, above, upon, across, along, through, under or affecting any land or any covenant or condition relating thereto, in respect of water or sewage works, in favour of the Crown, the Agency or any municipality having a contract with the Crown or the Agency in respect of water or sewage works is valid and enforceable in accordance with the terms of the instrument granting, creating or containing them, although the right or interest or the benefit of the covenant or condition is not appurtenant or annexed to or for the benefit of any land of the Crown, the Agency or the municipality. R.S.O. 1990, c. O.40, s. 27 (1); 1993, c. 23, s. 73 (16).

Terms of instrument binding on successors

(2) On and after the registration of an instrument to which subsection (1) applies in the proper land registry office, all the rights, interests, covenants and conditions granted or created by or contained in the instrument are binding upon and enure to the benefit of the heirs, successors, personal representatives and assigns of the parties to the instrument. R.S.O. 1990, c. O.40, s. 27 (2).

Liability of grantor for breach of covenant limited

(3) A party to an instrument to which subsection (1) applies or a person to whom subsection (2) applies is not liable for breach of a covenant or condition contained in the instrument committed after the person ceased to be the owner of the land therein mentioned, or after the person ceased to hold the interest in the land by virtue of which the person or the person's predecessor in title executed the instrument. R.S.O. 1990, c. O.40, s. 27 (3).

Land to remain subject to instrument when sold for taxes

(4) Where the land mentioned in an instrument to which subsection (1) applies is sold for taxes, the land shall be deemed to have been sold subject to any right or interest granted or created by and any condition or covenant contained in the instrument. R.S.O. 1990, c. O.40, s. 27 (4).

Application

(5) This section applies to rights, interests, covenants and conditions granted or created by or contained in any instrument of the type mentioned in subsection (1), executed after the 28th day of March, 1956. R.S.O. 1990, c. O.40, s. 27 (5).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (16) - 15/11/1993

WATER

28 REPEALED: 2005, c. 12, s. 2 (12).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 61 - 1/02/1999

2000, c. 22, s. 2 (2) - 21/11/2000

2005, c. 12, s. 2 (12) - 13/06/2005

Supervision of waters

29 (1) For the purposes of this Act, the Minister has the supervision of all surface waters and ground waters in Ontario. R.S.O. 1990, c. O.40, s. 29 (1).

Examination for pollution

(2) The Minister may examine any surface waters or ground waters in Ontario from time to time to determine what, if any, pollution exists and the causes thereof. R.S.O. 1990, c. O.40, s. 29 (2).

Injunction to prevent pollution of water

(3) Where any person is discharging or causing or permitting the discharge of any material of any kind into or in or near any waters that, in the opinion of the Minister, may impair the quality of the water in such waters, the Minister may apply without notice to the Superior Court of Justice for an order prohibiting such discharge for such period not exceeding twenty-one days and on such terms and conditions as a judge considers proper, and such order may, on application to the Court, be continued for such period and on such terms and conditions as a judge considers proper. R.S.O. 1990, c. O.40, s. 29 (3); 2001, c. 9, Sched. G, s. 6 (50).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (50) - 29/06/2001

Discharge of polluting material prohibited

30 (1) Every person that discharges or causes or permits the discharge of any material of any kind into or in any waters or on any shore or bank thereof or into or in any place that may impair the quality of the water of any waters is guilty of an offence. R.S.O. 1990, c. O.40, s. 30 (1).

Ministry to be notified when polluting material is discharged or escapes

(2) Every person that discharges or causes or permits the discharge of any material of any kind, and such discharge is not in the normal course of events, or from whose control material of any kind escapes into or in any waters or on any shore or bank thereof or into or in any place that may impair the quality of the water of any waters, shall forthwith notify the Ministry of the discharge or escape, as the case may be. R.S.O. 1990, c. O.40, s. 30 (2); 2006, c. 19, Sched. K, s. 3 (2).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. K, s. 3 (2) - 22/06/2006

Prohibiting or regulating discharge of sewage

31 A Director may by order prohibit or regulate the discharge by any person of sewage into or in any waters, and such order may be amended, varied or revoked by the Director as the Director considers desirable. R.S.O. 1990, c. O.40, s. 31.

Measures to alleviate effects of impairment of quality of water

32 Where, in the opinion of a Director, it is in the public interest to do so, the Director, by order, may require a person who owns, manages or has control of a sewage works, water works or other facility which may discharge material into a water or watercourse that may impair the quality of the water, to do any one or more of the following:

1. To have available at all times, or during the periods specified in the order, the equipment, material and personnel specified in the order at the locations specified in the order to prevent, reduce or alleviate any impairment of the quality of the water or the effects of any impairment of the quality of the water.
2. To obtain, construct and install or modify the devices, equipment and facilities specified in the order at the locations and in the manner specified in the order.
3. To implement the procedures specified in the order.
4. To take all steps necessary to ensure that the procedures specified in the order will be implemented in the event that a water or watercourse becomes impaired or may become impaired.
5. To monitor and record the quality and quantity of any water specified in the order and to report thereon to the Director.
6. To study and to report to the Director upon,
 - i. measures to control the discharge into a water or watercourse of a material specified in the order,
 - ii. the effects of the discharge into a water or watercourse of a material specified in the order,
 - iii. the water or watercourse into which a material specified in the order may be discharged. R.S.O. 1990, c. O.40, s. 32.

Area defined for protection of public water supply

33 (1) An area may be defined by a Director that includes a source of public water supply,

- (a) wherein no person shall swim or bathe;
- (b) wherein no material of any kind that may impair the quality of water therein shall be placed, discharged or allowed to remain; or
- (c) wherein no act shall be done and no water shall be taken that may unduly diminish the amount of water available in such area as a public water supply,

and thereupon the person who has a right to use the water from such source for the purpose of a public water supply shall give notice of the area so defined by publication, posting or otherwise as the Director considers necessary for the protection of the source of public water supply.

Offences

(2) Every person,

- (a) who swims or bathes within an area defined under clause (1) (a);

- (b) who places, discharges or allows to remain within an area defined under clause (1) (b) any material of any kind that may impair the quality of the water therein; or
- (c) who does any act or takes water within an area defined under clause (1) (c) so that the amount of water available within the area as a public water supply may be unduly diminished,

is guilty of an offence.

Exception

(3) Subsection (2) does not apply where the act or the taking of water that may unduly diminish the amount of water available as a public water supply within an area defined under subsection (1) was commenced before the notice of the area is given as required under subsection (1). R.S.O. 1990, c. O.40, s. 33.

Order relating to flowing water, etc.

33.1 (1) The Director may issue an order described in subsection (2) to a person described in subsection (3) if the order is necessary, in the opinion of the Director, for the purposes of this Act, and,

- (a) water is flowing, leaking or being released from, or is likely to flow, leak or be released from, any well or other hole or excavation in the ground; or
- (b) water is being diverted by, or is likely to be diverted by, any well or any other hole or excavation in the ground. 2007, c. 12, s. 1 (6).

Types of orders

(2) The order may require the person to whom it is issued, in such manner and within such time as may be set out in the order,

- (a) to stop, prevent, regulate or control the flowing, leaking, release or diversion of water; or
- (b) to study or monitor the flowing, leaking, release or diversion of water, to make records of the results of the study or of the monitoring, and to report the results to the Director. 2007, c. 12, s. 1 (6).

Person

(3) The order may be issued to,

- (a) the person who owns the land on which the well, hole or excavation is located;
- (b) the person who constructed or caused the construction of the well, hole or excavation; or
- (c) the person who manages or controls the well, hole or excavation. 2007, c. 12, s. 1 (6).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (6) - 1/01/2015

Water taking

34 (1) Despite any other Act but subject to section 47.3 of the *Environmental Protection Act*, a person shall not take more than 50,000 litres of water on any day by any means except in accordance with a permit issued under section 34.1. 2007, c. 12, s. 1 (8); 2009, c. 12, Sched. H, s. 1 (2).

Exceptions

(2) Subsection (1) does not apply to the following takings of water:

1. The taking of water for domestic purposes, other than by a municipal drinking water system within the meaning of the *Safe Drinking Water Act, 2002* or by a company public utility, as long as the amount of water taken,
 - i. is always less than 379,000 litres, or the lower amount that is prescribed by the regulations, per day, or
 - ii. if a regulation is made prescribing the manner of calculating average amounts of water, is less than an average of 379,000 litres, or the lower amount that is prescribed by the regulations, per day.
2. The taking of water by any person for the watering of livestock or poultry, as long as water is not taken into storage for that purpose and the amount of water taken,
 - i. is always less than 379,000 litres per day, or
 - ii. if a regulation is made prescribing the manner of calculating average amounts of water, is less than an average of 379,000 litres per day.

3. The taking of water for firefighting or other emergency purposes. 2007, c. 12, s. 1 (8).

Additional exceptions

(3) Subsection (1) does not apply to the following takings of water unless they are prescribed by the regulations:

1. A taking of water by means of a well that was constructed before March 30, 1961 and was not reconstructed, improved, deepened, altered or replaced on or after that date.
2. A taking of water by means of an intake from a surface source of supply, if the intake was installed before March 30, 1961 and was not reinstalled, reconstructed, improved, extended, altered or replaced on or after that date.
3. A taking of water by means of a structure or works for the diversion or storage of water, if the structure or works was constructed before March 30, 1961 and was not reconstructed, improved, extended, altered or replaced on or after that date.
4. A taking of water by any combination of the means referred to in paragraphs 1, 2 and 3. 2007, c. 12, s. 1 (8).

Exception, application for permit

(4) When a person takes water by a means described in subsection (3) and the water taking is prescribed by the regulations, subsection (1) does not apply to the person if the person has applied for a permit under section 34.1 and the application has not yet been finally disposed of. 2007, c. 12, s. 1 (8).

Director's prohibition

(5) Despite any other Act and despite subsections (1), (2) and (3) and any regulation made under this Act, the Director may, by order, prohibit any person from taking water by any means except in accordance with a permit issued under section 34.1, if the Director is of the opinion that the prohibition is necessary for the purpose of this Act. 2007, c. 12, s. 1 (8).

Transition

(6) A permit issued under this section before the coming into force of subsection 1 (8) of the *Safeguarding and Sustaining Ontario's Water Act, 2007* is deemed, for the purpose of subsection (1), to have been issued under section 34.1. 2007, c. 12, s. 1 (8).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (7) - 4/06/2007; 2007, c. 12, s. 1 (8) - 1/01/2015

2009, c. 12, Sched. H, s. 1 (1) - 24/09/2009; 2009, c. 12, Sched. H, s. 1 (2) - 1/01/2015

Permits

Issuance or renewal

34.1 (1) The Director may, on application, issue or renew a permit for the purpose of section 34. 2007, c. 12, s. 1 (8).

Amendment or revocation

(2) The Director may, on application or on his or her own initiative, amend or revoke a permit. 2007, c. 12, s. 1 (8).

Expiry

(3) A permit expires on the date set out in the permit. 2007, c. 12, s. 1 (8).

Application

(4) An application to the Director for the issuance, renewal, amendment or revocation of a permit shall be made in a form and in a manner approved by the Director, shall contain any information that is required by the Director, and shall be accompanied by any fee established in respect of the application under section 96. 2007, c. 12, s. 1 (8).

Same

(5) Without limiting the generality of subsection (4), the Director may require the applicant to,

- (a) undertake tests or studies specified by the Director relating to,
 - (i) the water taking,
 - (ii) any term or condition to which the permit may be subject, or
 - (iii) any other matter that the Director considers advisable for the purpose of this Act;
- (b) submit to the Director,

- (i) the results of tests or studies conducted under clause (a),
- (ii) any plans, specifications, reports and other information and documents relating to the matters listed in subclauses (a) (i), (ii) and (iii);
- (c) engage a person with qualifications specified by the Director to certify the accuracy of a test, study, plan, specification, report or other information or document described in clause (a) or (b);
- (d) consult with other persons or bodies about the application and report to the Director on the results of the consultation. 2007, c. 12, s. 1 (8).

Delay in deciding application for renewal

(6) If an application for the renewal of a permit is made at least 90 days before it expires or within the shorter period that is approved in writing by the Director, and the Director has not made a decision to renew the permit or to refuse the renewal by the expiry date, the permit is deemed to continue in force until the date the Director makes a decision to renew the permit or to refuse the renewal. 2007, c. 12, s. 1 (8).

Prescribed terms and conditions

(7) A permit is subject to the terms and conditions that are prescribed by the regulations. 2007, c. 12, s. 1 (8).

Terms and conditions in permit

(8) A permit is subject to any other terms and conditions that the Director considers appropriate and that are specified in the permit. 2007, c. 12, s. 1 (8).

Same

- (9) Without limiting the generality of subsection (8), the Director may include terms and conditions in a permit,
- (a) limiting the amount of water that may be taken under the permit;
 - (b) limiting the rate at which water may be taken under the permit;
 - (c) governing the manner in which water may be taken under the permit;
 - (d) governing the return, after use, of water taken under the permit;
 - (e) governing the monitoring and reporting of,
 - (i) the amount of water taken under the permit, including amounts of water that are returned after use,
 - (ii) the rate at which water is taken under the permit,
 - (iii) the use of water taken under the permit, and
 - (iv) the effects of water takings under the permit, including their effects on water quantity and quality;
 - (f) governing the keeping of records with respect to the matters that are monitored and reported as described in clause (e);
 - (g) requiring reports referred to in clause (e) to be made to the Director, to other persons or both;
 - (h) governing the use and conservation of water taken under the permit, including requiring the holder,
 - (i) to implement specified measures to promote the efficient use of the water or reduce the loss of water through consumptive use,
 - (ii) to ensure that an audit is conducted by a specified person or body in order to evaluate whether the water is being used efficiently, and to provide the results of the audit to the Director, to other persons or both, or
 - (iii) to prepare a water conservation plan and submit it to the Director, to amend the plan if required by the Director, and to implement the plan;
 - (i) requiring the holder to restrict the amount of water taken under the permit, in the circumstances specified in the permit;
 - (j) requiring the holder to implement specified measures,
 - (i) to prevent the water taking under the permit from causing interference with other water takings, and
 - (ii) to remedy any interference with other water takings that is caused by the water taking under the permit; and
 - (k) requiring the holder to use specified laboratories or testing methods. 2007, c. 12, s. 1 (8).

Same

- (10) Without limiting the generality of clause (9) (d), a term or condition governing the return of water may,
- (a) govern the manner in which water may be returned, the quantity of water that must be returned and the quality of water that may be returned; and
 - (b) govern the location or area to which water may be returned, including restricting the amount that may be returned to a location or area different from the one from which it was taken. 2007, c. 12, s. 1 (8).

Not transferable

- (11) A permit is not transferable without the Director's written consent. 2007, c. 12, s. 1 (8).

Applications re certain large transfers referred to Minister

- (12) The Director shall refer an application for the issuance or amendment of a permit to the Minister if,
- (a) in the absence of paragraph 3 of subsection 34.6 (2), subsection 34.6 (1) would prohibit the issuance or amendment of the permit; and
 - (b) the applicant seeks to rely on paragraph 3 of subsection 34.6 (2). 2007, c. 12, s. 1 (9).

Minister to determine application

- (13) The Minister shall determine an application that is referred to him or her under subsection (12) and, for that purpose, a reference to the Director in this section shall be read as a reference to the Minister. 2007, c. 12, s. 1 (9).

Procedure applicable to Minister's decisions

- (14) If an application is referred to the Minister under subsection (12),
- (a) the Minister shall ensure that notice of the application is given to the Great Lakes-St. Lawrence River Water Resources Regional Body in accordance with Chapter 5 of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005;
 - (b) the Minister shall not make a decision on the application until he or she has given the body referred to in clause (a) a reasonable opportunity to conduct a review of the application under Chapter 5 of the agreement referred to in clause (a); and
 - (c) the Minister shall, before making a decision on the application, consider any declaration of finding issued with respect to the application under Chapter 5 of the agreement referred to in clause (a). 2007, c. 12, s. 1 (9).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (8, 9) - 1/01/2015

Provincial officer's order

34.2 (1) A provincial officer may issue an order under this section to any person if the provincial officer reasonably believes that,

- (a) the person is taking water; and
- (b) the means used to take the water has the capacity to take water in an amount exceeding 50,000 litres per day. 2007, c. 12, s. 1 (10).

Information to be included in order

- (2) The order shall,
- (a) briefly describe the reasons for the order and the circumstances on which the reasons are based; and
 - (b) state that a review of the order may be requested in accordance with subsection (4). 2007, c. 12, s. 1 (10).

What the order may require

- (3) The order may require the person to whom it is directed,
- (a) to monitor and record the amount of water taken each day, for a period specified in the order; and
 - (b) to submit to a provincial officer, within the time specified in the order, a report setting out the amounts recorded. 2007, c. 12, s. 1 (10).

Amendment, revocation and review

(4) Sections 16.3 and 16.4 apply, with necessary modifications, to an order under subsection (1). 2007, c. 12, s. 1 (10).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (10) - 4/06/2007

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

34.3 (1) For the purposes of this Act, Ontario is divided into the following three water basins:

1. The Great Lakes-St. Lawrence River Basin, which consists of,
 - i. the part of Ontario the water of which drains into the Great Lakes or the St. Lawrence River, including the parts of the Great Lakes and of the St. Lawrence River that are within Ontario, or
 - ii. if the boundaries of the area described by subparagraph i are described more specifically by the regulations, the area within those boundaries.
2. The Nelson Basin, which consists of,
 - i. the part of Ontario the water of which drains into the Nelson River, or
 - ii. if the boundaries of the area described by subparagraph i are described more specifically by the regulations, the area within those boundaries.
3. The Hudson Bay Basin, which consists of,
 - i. the part of Ontario, not included in the Nelson Basin, the water of which drains into Hudson Bay or James Bay, or
 - ii. if the boundaries of the area described by subparagraph i are described more specifically by the regulations, the area within those boundaries. 2007, c. 12, s. 1 (10).

Prohibition

(2) A person shall not take water from a water basin described in subsection (1) if the person will cause or permit the water to be transferred out of the basin. 2007, c. 12, s. 1 (10).

Exceptions

(3) Subsection (2) does not apply if the transfer of water out of the water basin is one of the following:

1. A transfer of water that is in a container having a volume of 20 litres or less.
2. A transfer of water that occurs when a product other than water is manufactured or produced in the water basin, using water from that basin, and the product is then transferred out of that basin.
3. A transfer of water that is necessary for the operation of a vehicle, vessel or other form of transport that the water is transferred in, including water that is for the use of people, livestock or poultry in or on the vehicle, vessel or other form of transport.
4. A transfer of water for the purpose of firefighting or other emergency purposes.
5. A transfer of water by an undertaking that commenced before January 1, 1998, if the amount of water transferred out of the water basin in any calendar year after December 31, 1997 does not exceed the highest amount of water transferred out of the basin by the undertaking in any calendar year after December 31, 1960 and before January 1, 1998.
6. A transfer of water pursuant to the order of the Lieutenant Governor in Council dated October 2, 1913 respecting the Greater Winnipeg Water District. 2007, c. 12, s. 1 (10).

No permit

(4) A permit shall not be issued, amended or renewed under section 34.1 if water taken under the permit is to be taken from a water basin described in subsection (1) and transferred out of the basin contrary to subsection (2). 2007, c. 12, s. 1 (10, 11).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (10) - 4/06/2007; 2007, c. 12, s. 1 (11) - 1/01/2015

Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005

34.4 (1) The Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005 is recognized as one of the means by which the waters of the Great Lakes-St. Lawrence River Basin are conserved, protected and managed. 2007, c. 12, s. 1 (10).

Agreement's recognition of precautionary principle

(2) The agreement referred to in subsection (1) recognizes that, where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. 2007, c. 12, s. 1 (10).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (10) - 4/06/2007

Definitions, transfers between Great Lakes watersheds

34.5 (1) In this section and in sections 34.6 to 34.8,

“effective date” means the day subsection 1 (12) of the *Safeguarding and Sustaining Ontario's Water Act, 2007* comes into force; (“date d'entrée en vigueur”)

“Great Lakes watershed” means a watershed listed in subsection (2); (“bassin hydrographique des Grands Lacs”)

“increased transfer” means a transfer that would arise from an existing water taking where water is currently being transferred and an additional amount of water would be transferred; (“transfert augmenté”)

“new or increased transfer amount” means,

- (a) in the case of a new transfer, the amount of water that would be transferred, and
- (b) in the case of an increased transfer, the additional amount of water that would be transferred; (“quantité d'eau du nouveau transfert ou du transfert augmenté”)

“new transfer” means a transfer that would arise from,

- (a) a new water taking, or
- (b) an existing water taking where no water is currently being transferred; (“nouveau transfert”)

“related transferor”, when used with reference to a permit, means,

- (a) a person who does not take water under the permit but transfers water that has been taken under the permit, or
- (b) a person who,
 - (i) does not take water under the permit but distributes water that,
 - (A) has been taken under the permit, and
 - (B) has been or will be transferred, and
 - (ii) belongs to a class of persons that is prescribed by the regulations; (“auteur de transfert secondaire”)

“threshold amount” means 379,000 litres or more of water on any day or, if a regulation is made prescribing the manner of calculating average amounts of water, an average of 379,000 litres or more of water per day; (“quantité seuil”)

“transfer” means a transfer of water from one Great Lakes watershed to another. (“transfert”) 2007, c. 12, s. 1 (12).

Great Lakes watersheds

(2) For the purposes of this section and sections 34.6 to 34.8, the Great Lakes-St. Lawrence River Basin is divided into the following five watersheds, each of which consists of the area described by the regulations:

1. The Lake Superior watershed.
2. The Lake Huron watershed.
3. The Lake Erie watershed.
4. The Lake Ontario watershed.
5. The St. Lawrence River watershed. 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

Water transfers: Great Lakes watersheds

34.6 (1) A permit shall not be issued or amended under section 34.1 so as to authorize the taking of water from a Great Lakes watershed if,

- (a) any of the water would be transferred; and
- (b) the new or increased transfer amount would be the threshold amount. 2007, c. 12, s. 1 (12).

Exceptions

(2) Subsection (1) does not apply to the following transfers:

1. A transfer that satisfies the following criteria:
 - i. The portion of the new or increased transfer amount that is lost through consumptive use,
 - A. is always less than 19 million litres, or the lower amount prescribed by the regulations, per day, or
 - B. if a regulation is made prescribing the manner of calculating average amounts of water, is less than an average of 19 million litres, or the lower amount prescribed by the regulations, per day.
 - ii. The water is taken by the operating authority of a municipal drinking water system within the meaning of the *Safe Drinking Water Act, 2002* and the system serves a major residential development within the meaning of that Act.
 - iii. The criteria described in paragraphs 1 to 7 of subsection (3) are satisfied.
2. A transfer that satisfies the following criteria:
 - i. The portion of the new or increased transfer amount that is lost through consumptive use,
 - A. is always less than 19 million litres, or the lower amount prescribed by the regulations, per day, or
 - B. if a regulation is made prescribing the manner of calculating average amounts of water, is less than an average of 19 million litres, or the lower amount prescribed by the regulations, per day.
 - ii. The water is taken by the operating authority of a municipal drinking water system within the meaning of the *Safe Drinking Water Act, 2002* or by any other person.
 - iii. It has been demonstrated that conservation of existing water supplies is not a feasible, environmentally sound and cost effective alternative to,
 - A. the transfer, in the case of a new transfer, or
 - B. the transfer of the additional amount, in the case of an increased transfer.
 - iv. There are no other feasible, environmentally sound and cost effective alternatives to,
 - A. the transfer, in the case of a new transfer, or
 - B. the transfer of the additional amount, in the case of an increased transfer.
 - v. The criterion described in paragraph 1 of subsection (3) is satisfied, or it is not feasible, environmentally sound or cost effective to satisfy that criterion.
 - vi. The criteria described in paragraphs 2 to 7 of subsection (3) are satisfied.
 - vii. Notice of the application for the permit or amendment has been given to the Province of Quebec, the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania in accordance with the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005.
3. A transfer that satisfies the following criteria:
 - i. The portion of the new or increased transfer amount that is lost through consumptive use,
 - A. is at least 19 million litres, or the lower amount prescribed by the regulations, on any day, or
 - B. if a regulation is made prescribing the manner of calculating average amounts of water, is at least an average of 19 million litres, or the lower amount prescribed by the regulations, per day.

- ii. It has been demonstrated that conservation of existing water supplies is not a feasible, environmentally sound and cost effective alternative to,
 - A. the transfer, in the case of a new transfer, or
 - B. the transfer of the additional amount, in the case of an increased transfer.
- iii. There are no other feasible, environmentally sound and cost effective alternatives to,
 - A. the transfer, in the case of a new transfer, or
 - B. the transfer of the additional amount, in the case of an increased transfer.
- iv. The criteria described in paragraphs 1 to 7 of subsection (3) are satisfied.
- v. The requirements of subsection 34.1 (14) have been complied with. 2007, c. 12, s. 1 (12).

Criteria

(3) The criteria referred to in subparagraphs 1 iii, 2 v and vi and 3 iv of subsection (2) are:

1. The new or increased transfer amount is returned, either naturally or after use, to the same Great Lakes watershed from which it was taken, except for an amount prescribed by the regulations that may be lost through consumptive use.
2. The efficient use and conservation of existing water supplies cannot reasonably avoid,
 - i. the transfer, in the case of a new transfer, or
 - ii. the transfer of the additional amount, in the case of an increased transfer.
3. The new or increased transfer amount is reasonable, given the purposes for which,
 - i. the transfer is done, in the case of a new transfer, or
 - ii. the transfer of the additional amount is done, in the case of an increased transfer.
4. The transfer, in the case of a new transfer, or the transfer of the additional amount, in the case of an increased transfer, is implemented so as to ensure that it does not result in any significant individual or cumulative adverse impacts on the quantity or quality of the waters, or the water-dependent natural resources, of the Great Lakes-St. Lawrence River Basin, considering the potential cumulative impacts of any precedent-setting consequences associated with the transfer or the transfer of the additional amount, as the case may be.
5. The transfer, in the case of a new transfer, or the transfer of the additional amount, in the case of an increased transfer, is implemented so as to incorporate feasible, environmentally sound and cost effective water conservation measures to minimize the taking of water and losses of water through consumptive use.
6. The transfer is implemented so as to ensure that it complies with,
 - i. the Boundary Waters Treaty of 1909,
 - ii. the *International Boundary Waters Treaty Act* (Canada), and
 - iii. any other treaty, agreement or law that is prescribed by the regulations.
7. The transfer, in the case of a new transfer, or the transfer of the additional amount, in the case of an increased transfer, is implemented so as to ensure that it complies with any other criteria that are prescribed by the regulations for the purpose of implementing Article 209 (Amendments to the Standard and Exception Standard and Periodic Assessment of Cumulative Impacts) of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005, including criteria relating to climate change or other significant threats to the Great Lakes-St. Lawrence River Basin. 2007, c. 12, s. 1 (12).

Assessment of cumulative impacts

(4) If an assessment of cumulative impacts is prepared under Article 209 of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005, the Minister shall publish the assessment in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993* and invite members of the public to submit written comments to the Ministry on what actions should be taken by the Government of Ontario in response to the assessment, including comments on whether regulations should be made for the purpose of paragraph 7 of subsection (3) or under clause 75 (1.2) (b) and, if so, on the content of those regulations. 2007, c. 12, s. 1 (12).

Climate change, etc.

(5) When the Minister publishes an assessment under subsection (4), the Minister shall highlight the parts of the assessment that, in his or her opinion, give consideration to climate change and other significant threats to the waters of the Great Lakes-St. Lawrence River Basin. 2007, c. 12, s. 1 (12).

Government response

(6) After considering comments submitted under subsection (4), the Minister shall publish a statement in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993* that summarizes the actions that the Government of Ontario intends to take in response to the assessment. 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

Terms and conditions re water transfer

Statutory terms and conditions

34.7 (1) If a permit issued under section 34.1 authorizes the taking of water from a Great Lakes watershed and any of the water taken is transferred or is to be transferred, the permit is subject to the following terms and conditions, whether they are specified in the permit or not:

1. The person who takes water and any related transferor shall not cause or permit a new transfer or increased transfer where the new or increased transfer amount is the threshold amount, unless a holder first obtains an amendment to the permit or a new permit under section 34.1 to authorize the new transfer or increased transfer.
2. Each holder shall comply with any other terms and conditions that are,
 - i. prescribed by the regulations, and
 - ii. directed to the holder. 2007, c. 12, s. 1 (12).

Terms and conditions in permit

(2) If a permit issued under section 34.1 authorizes the taking of water from a Great Lakes watershed and any of the water taken is transferred or is to be transferred, the Director may include terms and conditions in the permit,

- (a) governing the transfer of water, including limiting the amount of water that may be transferred;
- (b) governing the return, after use, of transferred water, including,
 - (i) governing the manner in which the water may be returned,
 - (ii) governing the quality of the water that may be returned,
 - (iii) prescribing a minimum amount of water that must be returned,
 - (iv) governing the location or area to which the water may be returned, including restricting the amount of water that may be returned to a different location or area from the one where the water was taken;
- (c) governing monitoring and reporting of,
 - (i) the amount of water that is transferred, including the amount that is returned after use,
 - (ii) the rate at which water is transferred,
 - (iii) the use and conservation of transferred water, and
 - (iv) the effects of water transfers, including their effects on water quantity and quality;
- (d) requiring that reports described in clause (c) be made to the Director, to other persons or to both;
- (e) governing the keeping of records with respect to the matters that are monitored and reported as described in clause (c);
- (f) governing the use and conservation of transferred water, including requiring the holder,
 - (i) to implement specified measures to promote the efficient use of the water or reduce the loss of water through consumptive use,
 - (ii) to ensure that an audit is conducted by a specified person or body in order to evaluate whether the water is being used efficiently, and to provide the results of the audit to the Director, to other persons or both, or

(iii) to prepare a water conservation plan and submit it to the Director, to amend the plan if required by the Director, and to implement the plan; and

(g) governing any other matter as the Director considers appropriate to ensure that the transfer of water complies with this section or section 34.6. 2007, c. 12, s. 1 (12).

Same

(3) A term or condition described in subsection (2) may be directed to the person taking the water, to any related transferor, or to both. 2007, c. 12, s. 1 (12).

Application of s. 34.1 re related transferors

(4) When a term or condition described in subsection (2) and directed to a related transferor is included in a permit, the related transferor is entitled to make applications under section 34.1 in relation to the permit. 2007, c. 12, s. 1 (12).

Application of subs. (6)

(5) Subsection (6) applies in respect of a taking of water that,

- (a) is described in subsection 34 (3);
- (b) is from a Great Lakes watershed; and
- (c) does not require a permit under section 34. 2007, c. 12, s. 1 (12).

Prohibition, certain transfers

(6) On and after the effective date, a person who takes water by a means described in subsection (5) shall not cause or permit a new transfer or increased transfer where the new or increased transfer amount is the threshold amount, unless the person who takes the water first obtains a permit under section 34.1 to authorize the new transfer or increased transfer. 2007, c. 12, s. 1 (12).

Exceptions

(7) Subsections (1) and (6) and subsection 34.6 (1) do not apply to the following transfers:

1. A transfer of water that is in a container having a volume of 20 litres or less.
2. A transfer of water that occurs when a product other than water is manufactured or produced in the Great Lakes watershed, using water from that watershed, and the product is then transferred.
3. A transfer of water that is necessary for the operation of a vehicle, vessel or other form of transport that the water is transferred in, including water that is for the use of people, livestock or poultry in or on the vehicle, vessel or other form of transport.
4. A transfer of water for the purpose of firefighting or other emergency purposes. 2007, c. 12, s. 1 (12).

Amendment of related documents

(8) If a permit is issued or amended under section 34.1 so as to authorize the transfer of water and the transferred amount is the threshold amount, the Director may amend a document mentioned in subsection (9), for one or both of the following purposes:

1. To ensure that the document is consistent with the terms and conditions in the permit.
2. To ensure that the transfer satisfies one or more of the criteria described in subsection 34.6 (2) or (3). 2007, c. 12, s. 1 (12).

Same

(9) Subsection (8) applies with respect to the following documents:

1. An environmental compliance approval relating to a sewage works that returns the transferred water after use.
2. An approval, drinking water works permit or municipal drinking water licence issued under Part V of the *Safe Drinking Water Act, 2002* that relates to a drinking water system that transfers water.
3. A document that is prescribed by the regulations. 2007, c. 12, s. 1 (12); 2010, c. 16, Sched. 7, s. 3 (8).

Conflict

(10) If there is a conflict between a term or condition of a document referred to in subsection (9) and a term or condition included in a permit under subsection (2), the term or condition that provides the greatest protection to the quality and quantity of water prevails. 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

2010, c. 16, Sched. 7, s. 3 (8) - 31/10/2011

Transition – deemed current transfers

34.8 (1) The Director may, on the request of a holder and in accordance with the regulations, deem the holder to currently be transferring an amount of water specified by the Director for the purposes of sections 34.5 to 34.7. 2007, c. 12, s. 1 (12).

Deadline for request

(2) Subsection (1) applies only if the request is made before the second anniversary of the day subsection 1 (12) of the *Safeguarding and Sustaining Ontario's Water Act, 2007* comes into force. 2007, c. 12, s. 1 (12).

Information

(3) If a request is made under subsection (1), the holder shall submit with the request any information prescribed by the regulations and any additional information specified by the Director. 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

Reciprocating jurisdictions

34.9 In sections 34.10 and 34.11,

“reciprocating jurisdiction” means any of the following that has been prescribed as a reciprocating jurisdiction by the regulations:

1. The Province of Quebec.
2. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin.
3. The Commonwealth of Pennsylvania. 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

Proceedings before the Tribunal

Notice

34.10 (1) The Director shall give written notice of a decision described in subsection (2) to each reciprocating jurisdiction. 2007, c. 12, s. 1 (12).

Application of subs. (1)

(2) Subsection (1) applies to a decision of the Director under section 34.1 that relates to a taking of water from the Great Lakes-St. Lawrence River Basin if,

- (a) one or more criteria described in subsection 34.6 (3) apply to the decision; or
- (b) the decision is one that is specified in the regulations made under clause 75 (1.2) (b). 2007, c. 12, s. 1 (12).

Entitlement to require hearing

(3) Each reciprocating jurisdiction may, by written notice served on the Director and the Tribunal within 15 days after notice is given under subsection (1), require a hearing by the Tribunal. 2007, c. 12, s. 1 (12).

Extension of time

(4) The Tribunal shall extend the time in which notice may be given under subsection (3) if, in the opinion of the Tribunal, it is just to do so because service of the notice referred to in subsection (1) did not give the reciprocating jurisdiction notice of the decision. 2007, c. 12, s. 1 (12).

Parties

(5) The parties to the hearing are:

1. The reciprocating jurisdiction that requires the hearing.
2. The Director.
3. The applicant or permit holder to whom the decision under section 34.1 relates.
4. Any other persons specified by the Tribunal. 2007, c. 12, s. 1 (12).

New hearing

(6) The hearing shall be a new hearing. 2007, c. 12, s. 1 (12).

Powers of Tribunal

(7) The Tribunal may,

- (a) confirm, alter or revoke the decision of the Director that is the subject-matter of the hearing;
- (b) by order, direct the Director to take any action that the Tribunal considers he or she should take in accordance with this Act and the regulations; and
- (c) for the purposes of clauses (a) and (b), substitute its opinion for that of the Director. 2007, c. 12, s. 1 (12).

Application of ss. 101, 102 and 102.3

(8) Subject to subsection (9), sections 101, 102 and 102.3 apply, with necessary modifications, with respect to the hearing. 2007, c. 12, s. 1 (12).

Contents of notice

(9) In addition to the information required by subsection 101 (1), a reciprocating jurisdiction that requires a hearing under this section shall, in the notice requiring the hearing, set out,

- (a) the criteria described in subsection 34.6 (3) that should have been satisfied, and the reasons why they should have been satisfied; or
- (b) why the decision is one that is specified in the regulations made under clause 75 (1.2) (b). 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

Judicial review

34.11 When a decision relating to taking water from the Great Lakes-St. Lawrence River Basin is made under section 34.1, each reciprocating jurisdiction has the same standing as the person most directly affected by the decision to bring an application for judicial review under the *Judicial Review Procedure Act*, but only if one of the following conditions is satisfied:

1. The decision is alleged to have contravened subsection 34.3 (4).
2. In the case of a decision made by the Director,
 - i. one or more of the criteria set out in subsection 34.6 (3) apply, or
 - ii. the decision is one that is specified in the regulations made under clause 75 (1.2) (b).
3. The decision is made by the Minister. 2007, c. 12, s. 1 (12).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (12) - 1/01/2015

EFFICIENT USE OF WATER

Application

34.12 (1) This section applies to appliances and products prescribed by the regulations. 2010, c. 19, Sched. 5, s. 1.

Appliances and products, efficiency standards

(2) No person shall offer for sale, sell or lease an appliance or product to which this section applies unless,

- (a) the appliance or product meets the efficiency standard or requirement prescribed by the regulations with respect to the appliance or product; and
- (b) a label or other marking prescribed by the regulations that confirms compliance with the efficiency standards or requirements prescribed by the regulations in respect of the appliance or product is affixed to the appliance or product or provided with the appliance or product in the manner and under the circumstances prescribed by the regulations. 2010, c. 19, Sched. 5, s. 1.

Labels

(3) No person shall affix to or provide with an appliance or product to which this section applies a label or other marking prescribed by the regulations unless the appliance or product meets the efficiency standard or requirement prescribed by the regulations with respect to the appliance or product. 2010, c. 19, Sched. 5, s. 1.

Application of subs. (2)

- (4) Subsection (2) does not apply to,
 - (a) an appliance or product that is manufactured on or before a date prescribed by the regulations and that is sold or leased on or before a date prescribed by the regulations; or
 - (b) a person who is not in the business of offering for sale, selling or leasing appliances or products to which this section applies. 2010, c. 19, Sched. 5, s. 1.

Section Amendments with date in force (d/m/y)

2010, c. 19, Sched. 5, s. 1 - 29/11/2010

WELLS

Interpretation re: wells, ss. 35-50, 75 (2)

35 (1) In this section and in sections 36 to 50 and subsection 75 (2),

“construct”, when used with respect to a well, means bore, dig, drill or otherwise make, extend or alter; (“construire”)

“licensee” means the holder of a well contractor licence or a well technician licence, as the case requires; (“titulaire d’une licence”)

“well construction permit” means a permit referred to in section 36; (“permis de construction de puits”)

“well contractor licence” means a licence referred to in section 39; (“licence d’entrepreneur en construction de puits”)

“well technician licence” means a licence referred to in section 43. (“licence de technicien en construction de puits”) R.S.O. 1990, c. O.40, s. 35 (1); 2000, c. 26, Sched. F, s. 13 (7); 2001, c. 9, Sched. G, s. 6 (7, 8); 2007, c. 12, s. 1 (13).

Interpretation: works or equipment

(2) For the purposes of this section, sections 36 to 50 and subsection 75 (2), installing equipment in or connected to a well shall be deemed to be the constructing of a well. R.S.O. 1990, c. O.40, s. 35 (2); 2001, c. 9, Sched. G, s. 6 (9).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (7) - 6/12/2000

2001, c. 9, Sched. G, s. 6 (7-9) - 29/06/2001

2007, c. 12, s. 1 (13) - 4/06/2007

Permit required to construct well in designated area

36 Subject to section 47.3 of the *Environmental Protection Act*, no person shall construct a well in an area designated by the regulations except under and in accordance with a well construction permit issued by a Director. R.S.O. 1990, c. O.40, s. 36; 2009, c. 12, Sched. H, s. 2.

Section Amendments with date in force (d/m/y)

2009, c. 12, Sched. H, s. 2 - 24/09/2009

Issuance of well construction permit

37 Subject to section 38, any person who applies in accordance with this Act and the regulations for a well construction permit and who pays the prescribed fee is entitled to be issued the permit. R.S.O. 1990, c. O.40, s. 37.

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (10) - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

Grounds for refusal to issue, etc., well construction permit

38 A Director may refuse to issue or to renew or may revoke a well construction permit, may impose terms and conditions in issuing or renewing or after issuing or renewing a well construction permit and may alter the terms and conditions of a well construction permit that has been issued or renewed where the Director is of the opinion, upon reasonable and probable grounds, that,

- (a) the proposed well or its operation would contravene this Act or the regulations or any other Act or a regulation under any other Act;
- (b) there is or is likely to be danger to the health or safety of any person;
- (c) there is or is likely to be harm or material discomfort to any person;
- (d) there is or is likely to be impairment of the quality of any air, land or water for any use that is being or is likely to be made of it;
- (e) there is or is likely to be reduction of the quantity of water available for any use that is being or is likely to be made of it;
- (f) there is or is likely to be injury or damage to any property or to plant or animal life;
- (g) any property or plant or animal life is or is likely to be rendered, directly or indirectly, unfit for use by people;
- (h) there is or is likely to be loss of enjoyment of the normal use of any property;
- (i) there is or is likely to be interference with the normal conduct of any business; or
- (j) there is a breach of a term or condition of the permit. R.S.O. 1990, c. O.40, s. 38.

Well contractor licence required

39 No person shall engage in the business of constructing wells except under and in accordance with a well contractor licence issued by a Director or unless exempt under the regulations. R.S.O. 1990, c. O.40, s. 39.

Issuance of well contractor licence

40 Subject to sections 41 and 42, a Director shall issue a well contractor licence to any applicant therefor who is qualified for the licence under sections 35 to 50 and the regulations and has paid the prescribed fee. R.S.O. 1990, c. O.40, s. 40; 2001, c. 9, Sched. G, s. 6 (11).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (11) - 29/06/2001; 2001, c. 9, Sched. G, s. 6 (12) - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

Grounds for refusal to issue well contractor licence

41 A Director may refuse to issue a well contractor licence where the Director is of the opinion, upon reasonable and probable grounds, that,

- (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords grounds for belief that the business of constructing wells will not be operated in accordance with the law and with honesty and integrity;
- (b) the applicant or, where the applicant is a corporation, its officers or directors are not competent to engage in the business of constructing wells;
- (c) the applicant is not in a position to observe or carry out the provisions of sections 35 to 50, the regulations and the licence; or
- (d) the applicant or, where the applicant is a corporation, its officers or directors have been grossly negligent in carrying on the business of constructing wells under the authority of a licence issued under section 40 or a predecessor of that section. R.S.O. 1990, c. O.40, s. 41; 2001, c. 9, Sched. G, s. 6 (13).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (13) - 29/06/2001

Grounds for revocation, etc., of well contractor licence

42 A Director may revoke or suspend or may refuse to renew a well contractor licence where the Director is of the opinion, upon reasonable and probable grounds, that,

- (a) any person has made a false statement in any material part of the application for the licence or a renewal thereof or of any report, document or other information required to be furnished by this Act or the regulations or any other Act or a regulation under any other Act that relates to wells;
- (b) the past conduct of the licensee or, where the licensee is a corporation, of its officers or directors affords grounds for belief that the business of constructing wells has not been operated or will not be operated in accordance with the law and with honesty and integrity;
- (c) the licensee is in contravention of sections 35 to 50 or the regulations;
- (d) a change in the officers or directors of a corporation that is a licensee affords grounds for refusing to issue a licence under clause 41 (a), (b) or (d);
- (e) the services that can be provided by the licensee have been misrepresented;
- (f) the licensee is not competent to carry on or has been grossly negligent in carrying on the business of constructing wells; or
- (g) the licensee is not in a position to observe or carry out the provisions of sections 35 to 50, the regulations or the licence. R.S.O. 1990, c. O.40, s. 42; 2001, c. 9, Sched. G, s. 6 (14, 15).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (14, 15) - 29/06/2001

Well technician

43 (1) No person shall work at the construction of wells except under and in accordance with a well technician licence of a class prescribed by the regulations or unless exempt under the regulations. R.S.O. 1990, c. O.40, s. 43 (1); 2001, c. 9, Sched. G, s. 6 (16).

Proof of employment

(2) For the purposes of this section, proof of work on one occasion at the construction of a well is sufficient to establish work at the construction of wells. R.S.O. 1990, c. O.40, s. 43 (2).

Exception

(3) Subsection (1) does not apply,

- (a) to a person who works at the construction of a well on land owned by the person or by a member of the person's household; or
- (b) to a person who works without remuneration for another person at the construction of a well on land owned by the other person or by a member of the other person's household. R.S.O. 1990, c. O.40, s. 43 (3).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (16) - 29/06/2001

Issuance of well technician licence

44 Subject to sections 45 and 46, a Director shall issue a well technician licence of a class prescribed by the regulations to any applicant therefor who is qualified for the licence under sections 35 to 50 and the regulations and has paid the prescribed fee. R.S.O. 1990, c. O.40, s. 44; 2001, c. 9, Sched. G, s. 6 (17).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (17) - 29/06/2001; 2001, c. 9, Sched. G, s. 6 (18) - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

Grounds for refusal to issue well technician licence

45 A Director may refuse to issue a well technician licence where the Director is of the opinion, upon reasonable and probable grounds, that the applicant is not competent to carry on the activities that would be authorized by the licence. R.S.O. 1990, c. O.40, s. 45.

Grounds for refusal to renew, etc., well technician licence

46 A Director may revoke or suspend or may refuse to renew a well technician licence where the Director is of the opinion, upon reasonable and probable grounds, that,

- (a) any person has made a false statement in any material part of the application for the licence or a renewal thereof or of any report, document or other information required to be furnished by this Act or the regulations or any other Act or a regulation under any other Act that applies to the construction of wells;
- (b) the licensee is in contravention of sections 35 to 50 or the regulations; or
- (c) the licensee is not competent to carry on or has been grossly negligent in carrying on the activities that are authorized by the licence. R.S.O. 1990, c. O.40, s. 46; 2001, c. 9, Sched. G, s. 6 (19).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (19) - 29/06/2001

Review, refusal to issue, etc., well permit or licences

Notice of proposal to refuse to issue, etc.

47 (1) Where a Director proposes,

- (a) to refuse to issue or renew a well construction permit;
- (b) to revoke a well construction permit;
- (c) to impose terms and conditions in a well construction permit;
- (d) to alter the terms and conditions in a well construction permit;
- (e) to refuse to issue or renew a well contractor licence or a well technician licence; or
- (f) to revoke or suspend a well contractor licence or a well technician licence,

the Director shall serve notice of the proposal, together with written reasons therefor, on the applicant, permittee or licensee, and the applicant, permittee or licensee may, by written notice served upon the Director and the Tribunal within fifteen days after the service of the notice of the Director, require a hearing by the Tribunal. R.S.O. 1990, c. O.40, s. 47 (1); 2000, c. 26, Sched. F, s. 13 (13).

Powers of Tribunal where hearing

(2) Where an applicant, permittee or licensee requires a hearing by the Tribunal in accordance with subsection (1), the Tribunal shall appoint a time and place for and hold the hearing and may by order direct the Director to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Director ought to take in accordance with sections 35 to 50 and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Director. R.S.O. 1990, c. O.40, s. 47 (2); 2000, c. 26, Sched. F, s. 13 (13); 2001, c. 9, Sched. G, s. 6 (20).

Parties

(3) The applicant, permittee or licensee, the Director and any other persons specified by the Tribunal are parties to the hearing. R.S.O. 1990, c. O.40, s. 47 (3); 2000, c. 26, Sched. F, s. 13 (13).

Extension of time for requiring hearing

(4) The Tribunal shall extend the time for the giving of notice requiring a hearing by an applicant, permittee or licensee referred to in subsection (1), either before or after the expiration of such time, where it is satisfied that there are reasonable grounds for granting the extension and that there are apparent grounds for granting relief to the applicant, permittee or licensee referred to in subsection (1), and the Tribunal may give such directions as it considers proper consequent upon the extension. R.S.O. 1990, c. O.40, s. 47 (4); 2000, c. 26, Sched. F, s. 13 (13).

Notice of hearing

(5) The Tribunal shall give to the applicant, permittee or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the permit or licence or to take such action as will preclude the necessity for imposing or altering terms or conditions in the permit. R.S.O. 1990, c. O.40, s. 47 (5); 1994, c. 27, s. 116; 2000, c. 26, Sched. F, s. 13 (13).

Examination of documentary evidence

(6) An applicant, permittee or licensee who is a party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. O.40, s. 47 (6).

(7) REPEALED: 1997, c. 37, s. 4.

Findings of fact

(8) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1990, c. O.40, s. 47 (8); 2000, c. 26, Sched. F, s. 13 (13).

Release of documentary evidence

(9) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to the person by the Tribunal within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. O.40, s. 47 (9); 2000, c. 26, Sched. F, s. 13 (13).

Appeal to court

(10) Any party to proceedings before the Tribunal under this section may appeal from its decision on a question of law to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. O.40, s. 47 (10); 2000, c. 26, Sched. F, s. 13 (13).

(11) REPEALED: 1997, c. 37, s. 4.

Appeal to Minister

(12) Any party to a hearing before the Tribunal, within thirty days after receipt of the decision of the Tribunal or within thirty days after final disposition of an appeal, if any, under subsection (10), may appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as he or she considers in the public interest. R.S.O. 1990, c. O.40, s. 47 (12); 2000, c. 26, Sched. F, s. 13 (13).

Power of Director where no hearing

(13) Where an applicant, permittee or licensee does not require a hearing by the Tribunal under this section, the Director may carry out the proposal stated in the notice under subsection (1). R.S.O. 1990, c. O.40, s. 47 (13); 2000, c. 26, Sched. F, s. 13 (13).

Where hearing required

(14) Where a hearing by the Tribunal is required under this section, the Director, subject to section 48, shall not carry out the proposal until final disposition of the hearing and any appeal. R.S.O. 1990, c. O.40, s. 47 (14); 2000, c. 26, Sched. F, s. 13 (13).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 116 - 9/12/1994; 1997, c. 37, s. 4 - 18/12/1997

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2001, c. 9, Sched. G, s. 6 (20) - 29/06/2001

Interim order, refusal to issue, etc., well permit or licences

48 (1) Upon application by the Director and subject to subsection (4), the Tribunal may order that a proposal under section 47 may be carried out at once although a hearing is or may be required under that section or that the applicant, permittee or licensee fails to appear on the hearing of the application or the Tribunal may make a decision not to make such an order. R.S.O. 1990, c. O.40, s. 48 (1); 2000, c. 26, Sched. F, s. 13 (13).

Notice

(2) An application under subsection (1) must be made on not less than three full days notice to the applicant, permittee or licensee. R.S.O. 1990, c. O.40, s. 48 (2).

Appearance by respondent

(3) The respondent to an application under subsection (1) may,

- (a) appear in person or by a person authorized under the *Law Society Act* to represent the respondent at the hearing of the application; or

- (b) make submissions to the Tribunal by telephone or other means for consideration at the hearing. 2006, c. 21, Sched. C, s. 125 (1).

Grounds for order

- (4) The Tribunal may make an order under subsection (1) only where the Tribunal is satisfied that the order is necessary for the protection of the public or of any member of the public. R.S.O. 1990, c. O.40, s. 48 (4); 2000, c. 26, Sched. F, s. 13 (13).

Order may be subject to conditions

- (5) An order or a decision under subsection (1) may be made subject to such conditions as the Tribunal considers appropriate. R.S.O. 1990, c. O.40, s. 48 (5); 2000, c. 26, Sched. F, s. 13 (13).

When order terminates

- (6) An order under subsection (1) and a proposal carried out in accordance with the order are effective until final disposition of the hearing and any appeal. R.S.O. 1990, c. O.40, s. 48 (6).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2006, c. 21, Sched. C, s. 125 (1) - 1/05/2007

Expiry of well permit or licences

- 49** (1) Every well construction permit, every well contractor licence and every well technician licence expires on the 31st day of March in the year next following the year of its issue or renewal. R.S.O. 1990, c. O.40, s. 49 (1).

Continuation of licence pending renewal

- (2) Where a licensee has applied for a renewal of his, her or its licence and paid the prescribed fee before expiry of the licence, the licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where the licensee is served with notice that the Director proposes to refuse to grant the renewal, until the time for serving notice requiring a hearing by the Tribunal has expired and, where a hearing is required, until final disposition of the hearing and any appeal. R.S.O. 1990, c. O.40, s. 49 (2); 2000, c. 26, Sched. F, s. 13 (13).

Application of s. 48 (1)

- (3) Subsection (2) does not apply where an order is made under subsection 48 (1). R.S.O. 1990, c. O.40, s. 49 (3).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2001, c. 9, Sched. G, s. 6 (21) - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

Transfer of well permit or licences

- 50** A well construction permit, well contractor licence or well technician licence is not transferable. R.S.O. 1990, c. O.40, s. 50.

51 REPEALED: 2001, c. 9, Sched. G, s. 6 (22).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (22) - 29/06/2001

52 REPEALED: 2007, c. 10, Sched. D, s. 2 (6).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (23, 24) - 29/06/2001

2007, c. 10, Sched. D, s. 2 (6) - 4/06/2007

SEWAGE WORKS

Approval, sewage works

53 (1) Subject to section 47.3 of the *Environmental Protection Act*, no person shall use, operate, establish, alter, extend or replace new or existing sewage works except under and in accordance with an environmental compliance approval. 2010, c. 16, Sched. 7, s. 3 (9).

Exception, prescribed activities

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

1. An environmental compliance approval in respect of the activity engaged in at the site has been issued before the day when a regulation made under the *Environmental Protection Act* prescribing the activity for the purposes of subsection 20.21 (1) of that Act comes into force, and the approval has not ceased to have effect as determined under section 20.17 of that Act.
2. Subject to subsection (2.1), the Director has issued an order under section 20.18 of the *Environmental Protection Act* in respect of the activity at the site. 2010, c. 16, Sched. 7, s. 3 (10).

Same

(2.1) If a registration under Part II.2 of the *Environmental Protection Act* is in effect in respect of an activity engaged in at a site when the Director issues an order under section 20.18 of that Act in respect of the activity, subsection (1) applies only once the Director has removed the registration from the Environmental Activity and Sector Registry established under Part II.2 of that Act. 2010, c. 16, Sched. 7, s. 3 (10).

Powers of Director, where sewage works undertaken without approval

(3) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained an environmental compliance approval, a Director may order the person or the person's successor or assignee to afford at their own expense such facilities as the Director considers necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or the person's successor or assignee at their own expense. R.S.O. 1990, c. O.40, s. 53 (3); 2010, c. 16, Sched. 7, s. 3 (11).

(4), (5) REPEALED: 2010, c. 16, Sched. 7, s. 3 (12).

Exception

(6) This section does not apply,

(0.a) to routine maintenance carried out on any sewage works;

(a) to a sewage works from which sewage is not to drain or be discharged directly or indirectly into a ditch, drain or storm sewer or a well, lake, river, pond, spring, stream, reservoir or other water or watercourse;

(b) to a privately-owned sewage works designed for the partial treatment of sewage that is to drain or be discharged into a sanitary sewer;

(c) to a sewage system that is subject to the *Building Code Act, 1992*;

(d) to a drainage works under the *Drainage Act* or a sewage works where the main purpose of the works is to drain land for the purpose of agricultural activity;

(e) to a drainage works under the *Funeral, Burial and Cremation Services Act, 2002*, the *Public Transportation and Highway Improvement Act* or *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950;

(f) to such sewage works as may be exempted therefrom by the regulations,

but this section does apply to a sewage works for the distribution of sewage on the surface of the ground for the purpose of disposing of the sewage. R.S.O. 1990, c. O.40, s. 53 (6); 1997, c. 7, s. 6; 1997, c. 30, Sched. B, s. 24 (1); 2001, c. 9, Sched. G, s. 6 (25); 2002, c. 33, s. 146; 2010, c. 16, Sched. 7, s. 3 (13); 2017, c. 2, Sched. 11, s. 4 (2).

Application

(6.1) This section does apply to sewage works described in clause (6) (a) if,

- (a) the sewage works have a design capacity in excess of 10,000 litres per day;
- (b) more than one sewage works is located on a lot or parcel of land and they have, in total, a design capacity in excess of 10,000 litres per day; or
- (c) the sewage works are not located wholly within the boundaries of the lot or parcel of land on which is located the residence or other building or facility served by the works. 1997, c. 30, Sched. B, s. 24 (2); 2017, c. 2, Sched. 11, s. 4 (3).

Deemed approval

(7) Every sewage works constructed, extended or altered by the Crown or by the former Ontario Water Resources Commission before the 1st day of July, 1987 or that is under construction, extension or alteration by the Crown on the 30th day of June, 1987 shall be deemed to be constructed, extended or altered in accordance with an environmental compliance approval. R.S.O. 1990, c. O.40, s. 53 (7); 2010, c. 16, Sched. 7, s. 3 (14).

(8)-(11) REPEALED: 2010, c. 16, Sched. 7, s. 3 (16).

Section Amendments with date in force (d/m/y)

1997, c. 30, Sched. B, s. 24 (1, 2) - 6/04/1998; 1997, c. 7, s. 6 (1, 2) - 5/06/1997

2001, c. 9, Sched. G, s. 6 (25) - 29/06/2001

2002, c. 33, s. 146 - 1/07/2012

2007, c. 12, s. 1 (14) - 4/06/2007

2009, c. 12, Sched. H, s. 3 (1, 2) - 24/09/2009

2010, c. 16, Sched. 7, s. 3 (9-14, 16) - 31/10/2011; 2010, c. 16, Sched. 7, s. 3 (15) - 25/10/2010

2017, c. 2, Sched. 11, s. 4 (2, 3) - 22/03/2017

Continuation, sewage works

53.1 (1) If, except for the operation of Part VIII of the *Environmental Protection Act*, a works would have been a sewage works under this Act, upon the repeal of Part VIII of that Act, the works are continued as sewage works under this Act if,

- (a) a certificate of approval under section 77 of the *Environmental Protection Act* and a permit under section 78 of that Act were issued before the repeal of Part VIII and remain in force in respect of such works; or
- (b) a permit under section 78 of the *Environmental Protection Act* was issued before the repeal of Part VIII and remains in force for the works, but a certificate of approval under that Act was not issued or is no longer in force for the works. 1997, c. 30, Sched. B, s. 25.

Same

(2) If, except for the operation of Part VIII of the *Environmental Protection Act*, a works would have been a sewage works under this Act, upon the repeal of Part VIII of that Act the works are continued as sewage works under this Act if,

- (a) a certificate of approval under section 77 of the *Environmental Protection Act* was issued before the repeal of Part VIII and remains in force in respect of such works; and
- (b) a permit under section 78 of that Act is issued for the works within one year of the repeal of Part VIII. 1997, c. 30, Sched. B, s. 25.

Continuation for limited purpose

(3) Part VIII of the *Environmental Protection Act* shall be deemed to continue in force for the purpose of clause (2) (b) for a period of one year after its repeal and if no permit is issued within that period, the certificate of approval is cancelled. 1997, c. 30, Sched. B, s. 25.

Transfer

(4) A certificate of approval and permit under clause (1) (a) or subsection (2) and a permit under clause (1) (b) continue in force as if they were an environmental compliance approval, with such changes as necessary. 1997, c. 30, Sched. B, s. 25; 2010, c. 16, Sched. 7, s. 3 (17).

Continuation, orders

(5) An order issued and continuing in force under section 79 of the *Environmental Protection Act* in respect of a sewage system which except for the operation of Part VIII of the *Environmental Protection Act* would have been a sewage works

under this Act is, upon the repeal of Part VIII of that Act, continued as an order under section 53 of this Act, with such changes as necessary. 1997, c. 30, Sched. B, s. 25.

(6) REPEALED: 2010, c. 16, Sched. 7, s. 3 (18).

Records

(7) If an agreement under section 81 of the *Environmental Protection Act* was in force immediately before the repeal of Part VIII of that Act, the party which was administering Part VIII under the agreement shall,

- (a) keep all records in their possession or under their control with respect to matters continued under this section for a period of 6 years from the date of the repeal or as otherwise prescribed under subsection (11);
- (b) on the written request of the Director, deliver to the Director a record or certified copy of a record relating to Part VIII as specified in the request;
- (c) on the written request of the Director, deliver to the Director a certificate as to the service of any document relating to Part VIII as specified in the request;
- (d) on the written request of the Director, deliver to the Director a certificate as to the custody of any document relating to Part VIII as specified in the request; and
- (e) on the written request of the Director, deliver to the Director a certificate as to whether or not any document relating to Part VIII as specified in the request was received or issued. 1997, c. 30, Sched. B, s. 25.

Deemed official document

(8) A record, certified copy of a record or a certificate delivered under clause (7) (b) or (c) that is or relates to an approval, certificate, consent, licence, notice, permit, order or return under Part VIII of the *Environmental Protection Act* shall be deemed to be an official document signed by an employee in the Ministry for the purpose of section 115. 1997, c. 30, Sched. B, s. 25.

Same

(9) A certificate delivered under clause (7) (d) or (e) shall be deemed to be an official document signed by an employee in the Ministry for the purpose of section 115. 1997, c. 30, Sched. B, s. 25.

References

(10) The references to sections 77, 78, 79 and 81 of the *Environmental Protection Act* are references to those provisions as they read immediately before the repeal of Part VIII of the *Environmental Protection Act* under Schedule B of the Services Improvement Act, 1997. 1997, c. 30, Sched. B, s. 25.

Regulations

(11) The Lieutenant Governor in Council may make regulations prescribing transitional matters necessary to deal with issues arising out of the repeal of Part VIII of the *Environmental Protection Act*, which regulations may be general or specific in their application and may be retroactive to the date this section comes into force. 1997, c. 30, Sched. B, s. 25.

Sewage works

(12) A regulation under subsection (11) may specify any works as sewage works for the purpose of any section of this Act or regulations made under this Act. 1997, c. 30, Sched. B, s. 25.

Non-application

(13) This section does not apply to sewage works which are exempt from approval by virtue of the operation of subsections 53 (6) and (6.1). 1997, c. 30, Sched. B, s. 25.

Limitation

(14) This section applies only to sewage systems which, except for the operation of Part VIII of the *Environmental Protection Act*, would have been sewage works under this Act and to matters and documents related to such sewage systems. 1997, c. 30, Sched. B, s. 25.

Section Amendments with date in force (d/m/y)

1997, c. 30, Sched. B, s. 25 - 6/04/1998

2010, c. 16, Sched. 7, s. 3 (17) - 31/10/2011; 2010, c. 16, Sched. 7, s. 3 (18) - 25/10/2010

Sewage works established or extended in or into another municipality

54 (1)-(3) REPEALED: 2010, c. 16, Sched. 7, s. 3 (19).

Powers of municipality after approval

(4) If a registration under Part II.2 of the *Environmental Protection Act* is in effect or an environmental compliance approval has been issued in respect of a sewage works established or extended or to be established or extended by a municipality in or into another municipality or territory without municipal organization, the municipality undertaking the establishment or extension may enter upon, take and use such lands in such other municipality or municipalities or territory without municipal organization as may be necessary, and for that purpose has the same powers within such municipality or municipalities or territory as it has within its own municipality. R.S.O. 1990, c. O.40, s. 54 (4); 2002, c. 17, Sched. F, Table; 2010, c. 16, Sched. 7, s. 3 (20).

Application to Board

(5) If a registration under Part II.2 of the *Environmental Protection Act* is in effect or an environmental compliance approval has been issued in respect of a sewage works established or extended or to be established or extended by a municipality in or into another municipality or territory without municipal organization, the municipality undertaking the establishment or extension, before proceeding therewith, may apply to the Board for an order,

- (a) stopping up and closing any highway, road or road allowance, temporarily or permanently, for the purpose of allowing the establishment or extension to be carried on and vesting it in the municipality undertaking the establishment or extension, and providing for the opening of another highway, road or road allowance in lieu of the highway, road or road allowance so stopped up and closed, and subsection 88 (2) of the *Registry Act* does not apply;
- (b) ordering that any building restrictions, covenants running with the land or any limitations placed upon the estate or interest of any person in any lands upon or through which it is proposed that the establishment or extension may be constructed shall be terminated and shall be no longer operative or binding upon or against any person, and directing that any such order be registered under the *Registry Act*; and
- (c) fixing the compensation for lands taken or injuriously affected in the construction, maintenance or operation of the establishment or extension,

and notice of the application shall be given to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Board may direct. R.S.O. 1990, c. O.40, s. 54 (5); 2010, c. 16, Sched. 7, s. 3 (21).

Registration of order

(6) The registration of an order under clause (5) (b) is a bar to any action or proceeding taken by any person claiming any right or benefit under or by reason of any such restrictions, covenants, interests, estate or title in the lands described in the order. R.S.O. 1990, c. O.40, s. 54 (6).

Agreements as to use

(7) Where sewage works of a municipality are established or extended in or into another municipality, the municipality in or into which the sewage works are established or extended may make an agreement with the owner of the sewage works for the connecting with and the use of the sewage works. R.S.O. 1990, c. O.40, s. 54 (7).

Application by municipality

(8) Where a municipality in or into which sewage works are established or extended is unable to make an agreement under subsection (7), the Board, upon an application authorized by by-law of its council, may confer the right to make use of the sewage works upon the applicant municipality and the inhabitants thereof whose properties may be conveniently served by the sewage works, and prescribe the terms and conditions of such use. R.S.O. 1990, c. O.40, s. 54 (8).

Municipality may collect as taxes amounts agreed or ordered to be paid

(9) Where an agreement is made under subsection (7) or an order is made under subsection (8), the municipality in or into which the sewage works are established or extended may assess, levy and collect as taxes the amounts to be paid under the agreement or order in the same manner and to the same extent as if the municipality itself were proposing to construct, were constructing or had constructed the works or were operating and maintaining the works. R.S.O. 1990, c. O.40, s. 54 (9).

(10) REPEALED: 2010, c. 16, Sched. 7, s. 3 (22).

Application to Board

(11) If a registration under Part II.2 of the *Environmental Protection Act* is in effect or an environmental compliance approval has been issued in respect of the extension of a sewage works by a person, other than a municipality, of their sewage

works from one municipality into another municipality or into territory without municipal organization, the Board may, on application made by the person undertaking the extension, order the amendment of any by-law for prohibiting or regulating the use of land or structures for dumping or disposing of garbage, refuse or domestic or industrial waste passed under the *Municipal Act, 2001*, the *City of Toronto Act, 2006* or a predecessor of those Acts or any by-law passed under section 34 of the *Planning Act* or any official plan to permit the use of the land for extension. R.S.O. 1990, c. O.40, s. 54 (11); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 45 (1); 2010, c. 16, Sched. 7, s. 3 (23).

Powers of Board

(12) The Board, as a condition of making an order under subsection (11), may impose such restrictions, limitations and conditions respecting the use of land for the extension of the sewage works, not inconsistent with the regulations made for the purposes of Part II.2 of the *Environmental Protection Act* or the terms and conditions in the environmental compliance approval, as to the Board may appear necessary or expedient. R.S.O. 1990, c. O.40, s. 54 (12); 2010, c. 16, Sched. 7, s. 3 (24).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (8) - 6/12/2000

2002, c. 17, Sched. F, Table - 1/01/2003

2006, c. 32, Sched. C, s. 45 (1) - 1/01/2007

2010, c. 16, Sched. 7, s. 3 (19-24) - 31/10/2011

Sewage works established or extended within a municipality

55 (1)-(3) REPEALED: 2010, c. 16, Sched. 7, s. 3 (25).

Application to Board

(4) If a registration under Part II.2 of the *Environmental Protection Act* is in effect or an environmental compliance approval has been issued in respect of the establishment or extension of a sewage treatment works by a person, other than a municipality, of sewage treatment works within a municipality the Board may, on application by the person undertaking the establishment or extension, order the amendment of any by-law for prohibiting or regulating the use of land or structures for dumping or disposing of garbage, refuse or domestic or industrial waste passed under the *Municipal Act, 2001*, the *City of Toronto Act, 2006* or a predecessor of those Acts or any by-law passed under section 34 of the *Planning Act* or any official plan to permit the use of land for the establishment or extension. R.S.O. 1990, c. O.40, s. 55 (4); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 45 (2); 2010, c. 16, Sched. 7, s. 3 (26).

Powers of Board

(5) The Board, as a condition of making an order under subsection (4), may impose such restrictions, limitations and conditions respecting the use of land for the establishment or extension of the sewage treatment works not inconsistent with the regulations made for the purposes of Part II.2 of the *Environmental Protection Act* or the terms and conditions in the environmental compliance approval, as to the Board may appear necessary or expedient. R.S.O. 1990, c. O.40, s. 55 (5); 2010, c. 16, Sched. 7, s. 3 (27).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (9) - 6/12/2000

2002, c. 17, Sched. F, Table - 1/01/2003

2006, c. 32, Sched. C, s. 45 (2) - 1/01/2007

2010, c. 16, Sched. 7, s. 3 (25-27) - 31/10/2011

Application of ss. 54 (11) and (12), 55 (4) and (5) to municipality

56 Subsections 54 (11) and (12) and subsections 55 (4) and (5) apply with necessary modifications to a municipality that has been issued an environmental compliance approval or has been provided with a confirmation of registration under Part II.2 of the *Environmental Protection Act* to the establishment or extension of its sewage works or to the establishment or extension of sewage treatment works. R.S.O. 1990, c. O.40, s. 56; 2010, c. 16, Sched. 7, s. 3 (28).

Section Amendments with date in force (d/m/y)

2010, c. 16, Sched. 7, s. 3 (28) - 31/10/2011

Powers of Board, review of municipal sewage works

57 The Board may inquire into, hear and determine any application by or on behalf of any person complaining that any municipality constructing, maintaining or operating sewage works or having the control thereof,

- (a) has failed to do any act, matter or thing required to be done by any Act, by any regulation made under any Act, by any order or direction, or by any agreement entered into with the municipality; or
- (b) has done or is doing any such act, matter or thing improperly,

and that the same is causing deterioration, loss, injury or damage to property, and the Board may make any order, award or finding in respect of any such complaint as it considers just. R.S.O. 1990, c. O.40, s. 57; 2001, c. 9, Sched. G, s. 6 (26).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (26) - 29/06/2001

Right to compensation, effect of sewage works, etc.

58 Where land is expropriated by a municipality for sewage works or is injuriously affected by the construction, maintenance or operation of sewage works by a municipality, the *Expropriations Act* applies. R.S.O. 1990, c. O.40, s. 58.

Construction or operation of approved sewage works by statutory authority

59 Sewage works that are being or have been constructed, maintained or operated in compliance with this Act, the *Environmental Protection Act* and the regulations under both Acts and with any order, direction or approval issued under the authority of this Act or any predecessor of any provision of this Act or an environmental compliance approval shall be deemed to be under construction, constructed, maintained or operated by statutory authority. R.S.O. 1990, c. O.40, s. 59; 2010, c. 16, Sched. 7, s. 3 (29).

Section Amendments with date in force (d/m/y)

2010, c. 16, Sched. 7, s. 3 (29) - 31/10/2011

Returns from sewage works

60 The owner of sewage works shall make returns to a Director on the matters and within the time specified by the Director in a direction to the owner. R.S.O. 1990, c. O.40, s. 60.

Sewage works to be kept in repair

61 Sewage works shall at all times be maintained, kept in repair and operated in such manner and with such facilities as may be directed from time to time by a Director. R.S.O. 1990, c. O.40, s. 61.

Report by Director, water or sewage works

62 (1) Where a Director reports in writing to the clerk of a municipality that he or she is of the opinion that it is necessary in the public interest that water works or sewage works or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, the municipality shall forthwith do every act and thing in its power to implement the report of the Director. R.S.O. 1990, c. O.40, s. 62 (1); 2001, c. 9, Sched. G, s. 6 (27).

Implementation of report

(2) If the municipality fails to do everything in its power to implement the report forthwith after receiving it, and the time for taking an appeal has passed or there has been a final disposition of an appeal confirming or altering the report, the Director, with the approval of the Board, may direct that whatever is necessary to implement the report or the report as confirmed or altered be done at the expense of the municipality, and may arrange for the Agency to do it. 1993, c. 23, s. 73 (17).

Recovery of expense

(3) The Minister or the Agency may recover the expense incurred in implementing the report, with costs, by action in a court of competent jurisdiction, as a debt due to the Crown or the Agency, as the case may be, by the municipality. 1993, c. 23, s. 73 (17).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (17) - 15/11/1993

2001, c. 9, Sched. G, s. 6 (27) - 29/06/2001

PROJECTS

Application for water or sewage works

63 (1) Any one or more municipalities may apply to the Agency for the provision of and operation by the Agency of water works or sewage works for the municipality or municipalities. R.S.O. 1990, c. O.40, s. 63 (1); 1993, c. 23, s. 73 (18).

Duty of Agency

- (2) The Agency may thereupon furnish to such municipality or municipalities,
- (a) an estimate of the cost of the project and such other information as the Agency considers advisable;
 - (b) a statement of the terms and conditions including the method of financing as determined by the Agency upon which the Agency will complete and operate the project; and
 - (c) a form of agreement to be entered into between the municipality or municipalities and the Agency. R.S.O. 1990, c. O.40, s. 63 (2); 1993, c. 23, s. 73 (18).

Power to make agreement

(3) The council of any municipality may by by-law authorize the municipality to enter into such an agreement with the Agency, and the Agency may enter into any such agreement with any municipality or municipalities and, when such an agreement has been entered into, the parties thereto have all such powers as may be necessary to carry out the provisions thereof or of any undertaking given pursuant thereto. R.S.O. 1990, c. O.40, s. 63 (3); 1993, c. 23, s. 73 (19).

(4) REPEALED: 2001, c. 9, Sched. G, s. 6 (28).

Agency to act for municipality for approval of Board

(5) Where a municipality that proposes to enter into an agreement with the Agency is required to obtain the approval of the Board with respect to any aspect of the proposed project, the application for such approval shall be made by the Agency on behalf of the municipality. R.S.O. 1990, c. O.40, s. 63 (5); 1993, c. 23, s. 73 (20).

Term of agreement

(6) Despite any other Act, every such agreement remains in force for such period as it may prescribe and in any event until all obligations to the Agency of the municipality or municipalities party or parties to the agreement have been fulfilled to the satisfaction of the Agency. R.S.O. 1990, c. O.40, s. 63 (6); 1993, c. 23, s. 73 (20).

Agreement binding on local board

(7) Where a municipality has entered into an agreement with the Agency under this section, the agreement is binding on any commission or local board having the control and management of water works or sewage works, as the case may be, in the municipality. R.S.O. 1990, c. O.40, s. 63 (7); 1993, c. 23, s. 73 (20).

Form of agreement

(8) Any agreement under this section may be evidenced by one or more documents. R.S.O. 1990, c. O.40, s. 63 (8).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (18-20) - 15/11/1993

2001, c. 9, Sched. G, s. 6 (28) - 29/06/2001

Payments by municipalities to Agency under s. 63 agreements

64 (1) Every municipality that has entered into an agreement with the Crown under section 63 before the 1st day of April, 1974 shall pay to the Agency the following sums or, where such agreement is with more than one municipality, or where the project requires more than one agreement at least one of which is with a municipality, its share as adjusted by the Agency, of the following sums:

1. In each calendar year during the currency of such agreement, commencing with the calendar year in which occurs the date of completion of such project,
 - i. the proportion payable by the municipality or municipalities party or parties to the project, as adjusted by the Agency, of the total amount of interest and expenses of debt service that would be payable by the Commission in each such year if the Commission were not dissolved in respect of all borrowings of the Commission from time to time outstanding and made by the Commission at any time before or after the making of such agreement for the purpose of meeting,
 - A. the cost or estimated cost of all projects, except projects under agreements referred to in subsection (2), or

- B. the cost or estimated cost of all projects referred to in subsection (2),
 at any time theretofore or thereafter acquired, provided or constructed or in course of acquisition, provision or construction by the Commission pursuant to any agreement or agreements, or for any other purpose of the Commission respecting such projects, including the refunding or repayment in whole or in part of any such borrowings,
- ii. the total cost to the Agency in each such year of the operation, supervision, maintenance, repair, administration and insurance of such project, and
 - iii. the total amount in each such year placed by the Agency to the credit of the reserve account referred to in subsection 68 (1) in respect of such project or an amount equal to 1½ per cent of the cost of such project, whichever is less, and such additional amount as may be approved by the municipality or municipalities.
2. In each calendar year for such period of years as may be prescribed by such agreement, commencing not later than the fifth calendar year next following the date of completion of such project, such sum as would be necessary with interest compounded annually thereon at such rate as is prescribed by regulation to form at the expiry of such period of years a fund equal to the cost of such project. R.S.O. 1990, c. O.40, s. 64 (1); 1993, c. 23, s. 73 (21).

Interest and expenses of debt service

(2) In respect of agreements under section 63 entered into after the 31st day of December, 1965 and before the 1st day of April, 1974, the interest and expenses of debt service that would be payable by the Commission referred to in subparagraph 1 i of subsection (1) shall, in each year during the currency of the agreement, be the amount calculated by applying the average rate of such interest and expenses as would have been payable to the Minister of Finance in respect of the project. R.S.O. 1990, c. O.40, s. 64 (2); 2001, c. 9, Sched. G, s. 6 (29).

Annual adjustment of payments

(3) The Agency shall annually adjust and apportion among the respective municipalities the sums payable to the Agency by such municipalities under subsection (1). R.S.O. 1990, c. O.40, s. 64 (3); 1993, c. 23, s. 73 (21).

Settlement of disputes

(4) In the event of any dispute arising as to the adjustment or apportionment of any sums payable to the Agency by the respective municipalities under subsection (1), such dispute shall be referred to a sole arbitrator to be appointed by the Lieutenant Governor in Council, and the award of the arbitrator is final and binding on the Agency and the municipality or municipalities concerned. R.S.O. 1990, c. O.40, s. 64 (4); 1993, c. 23, s. 73 (21).

Costs

(5) The services of the arbitrator shall be paid in such amount as may be directed by the Lieutenant Governor in Council and the whole costs of such arbitration shall be paid as directed by the arbitrator in the award. R.S.O. 1990, c. O.40, s. 64 (5).

Procedure

(6) Except as otherwise provided in this section, the *Municipal Arbitrations Act* applies to any arbitration under subsection (4). R.S.O. 1990, c. O.40, s. 64 (6).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (21) - 15/11/1993

2001, c. 9, Sched. G, s. 6 (29) - 29/06/2001

Sewer rates and water works rates

65 (1) The council of a municipality that has entered into or proposes to enter into an agreement under section 63 may by by-law provide for imposing upon owners or occupants of land who derive, or will or may derive, a benefit from the project a sewer rate or water works rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Agency required to be made,

- (a) where the agreement is or has been entered into before the 1st day of April, 1974, under subparagraph 1 i and paragraph 2 of subsection 64 (1); or
- (b) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for the cost of the project,

and, with the like approval, such by-law may from time to time be amended or repealed. R.S.O. 1990, c. O.40, s. 65 (1); 1993, c. 23, s. 73 (22).

Commutation of rates

(2) Where a by-law under subsection (1) imposes a sewer rate or water works rate upon owners or occupants of land, the council of the municipality may provide for commutation for a payment in cash of the whole or any part of the rate imposed and may prescribe the terms and conditions thereof. R.S.O. 1990, c. O.40, s. 65 (2).

Sewage service rate and water service rate

(3) The council of a municipality that has entered into or proposes to enter into an agreement under section 63 may by by-law provide for imposing upon owners or occupants of land from which sewage is received, treated or disposed of or to which water is supplied through or by the project a sewage service rate or water service rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Agency required to be made,

- (a) where the agreement is or has been entered into before the 1st day of April, 1974, under subparagraphs 1 ii and iii of subsection 64 (1); or
- (b) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for,
 - (i) the total cost to the Agency in each year of the operation, supervision, maintenance, repair, administration and insurance of the project, and
 - (ii) the total amount in each year placed by the Agency to the credit of any reserve account established under the agreement for the project. R.S.O. 1990, c. O.40, s. 65 (3); 1993, c. 23, s. 73 (23-25).

Application

(4) Subject to this section, Part XII of the *Municipal Act, 2001* or Part IX of the *City of Toronto Act, 2006*, as the case may be, and the regulations under those Parts apply with necessary modifications to sewer rates and sewage service rates imposed under this section. 2006, c. 32, Sched. C, s. 45 (3).

Same

(5) Every water works rate or water service rate imposed under this section shall, in so far as is practicable and subject to this section, be imposed in the same manner and with and subject to the same provisions as apply to fees or charges imposed under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, in respect of water works and those Acts and the regulations under those Acts apply with necessary modifications to the imposition of such rates. 2006, c. 32, Sched. C, s. 45 (4).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (22-25) - 15/11/1993

2002, c. 17, Sched. F, Table - 1/01/2003

2006, c. 32, Sched. C, s. 45 (3, 4) - 1/01/2007

Cost of construction of service drains

66 Where an agreement is made with a municipality for the provision of sewers under subsection 10 (2) or under section 63, the municipality may charge the owner of the premises for which a service drain is constructed the cost of construction of the service drain from the sewer to the line of the highway, together with interest thereon at a rate to be determined by the municipality, over such period of years as the municipality determines. R.S.O. 1990, c. O.40, s. 66.

When payments to be made under s. 63 agreements

67 (1) As soon as practicable in each calendar year, and in any event not later than the 15th day of February, the Agency shall estimate the respective amounts payable to the Agency in such calendar year by each of the municipalities having agreements with the Crown under section 63 entered into before the 1st day of April, 1974 and shall by its precept directed to each municipality require such municipality to pay to the Agency on the dates specified in the agreement the sums so payable by each municipality and the municipality shall make payment to the Agency accordingly, but in the calendar year in which occurs the date of completion of the project the estimate by the Agency may be made and the precept of the Agency may be delivered at any time in such year as the Agency may determine and the payment or payments by the municipality shall be made at such time or times as the Agency may require. R.S.O. 1990, c. O.40, s. 67 (1); 1993, c. 23, s. 73 (26).

Adjustment

(2) At the end of each calendar year, the actual sums payable by each municipality to the Agency for such year for the purposes aforesaid shall be ascertained by the Agency and the Agency shall inform the municipality of the amount owing to or by it and such amount shall be deducted from or added to the first payment to be made by the municipality in the next calendar year. R.S.O. 1990, c. O.40, s. 67 (2); 1993, c. 23, s. 73 (27).

Delivery

(3) The mailing by the Agency of the precepts by registered mail in envelopes addressed to the clerks of the respective municipalities constitutes delivery of the precepts to them. R.S.O. 1990, c. O.40, s. 67 (3); 1993, c. 23, s. 73 (27).

Prepayment

(4) A municipality may pay and the Agency may accept,

- (a) in advance of the time that it would otherwise be payable, any sum in respect of any sum mentioned in section 64; and
- (b) any sum to reduce the cost of a project. R.S.O. 1990, c. O.40, s. 67 (4); 1993, c. 23, s. 73 (27).

Municipalities may raise money for agreements

(5) For the purpose of meeting the periodic payments to the Agency under an agreement entered into under section 63, a municipality may raise money by any method or methods authorized by law or by any combination thereof as if the municipality itself were proposing to construct, were constructing or had constructed the works or were operating and maintaining the works. R.S.O. 1990, c. O.40, s. 67 (5); 1993, c. 23, s. 73 (27).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (26, 27) - 15/11/1993

Agency reserve accounts, s. 63 projects

68 (1) The Agency may establish and maintain a reserve account in respect of each project under section 63,

- (a) to provide for renewals and replacements in respect of the project;
- (b) to provide for contingencies in respect of such project; and
- (c) to provide for capital expenditures for the improvement of the project in relation to its operation and appearance,

and for such purposes may place to the credit of or charge to such reserve accounts such amounts as may in the opinion of the Agency be sufficient therefor. R.S.O. 1990, c. O.40, s. 68 (1); 1993, c. 23, s. 73 (28).

When money may be expended in respect of another project

(2) Despite subsection (1), where a reserve account has been established in respect of a project, the Agency may, in respect of any other project for the same municipality, charge to such reserve account such amounts as in the opinion of the Agency may be sufficient therefor for any of the purposes mentioned in clauses (1) (a), (b) and (c). R.S.O. 1990, c. O.40, s. 68 (2); 1993, c. 23, s. 73 (28).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (28) - 15/11/1993

Agency reserve accounts, administration

69 (1) All amounts placed and remaining to the credit of all reserve accounts under any agreements under this Act shall be deposited with the Agency to the credit of a special consolidated account known as the Agency reserve account and the interest applicable in each year to the account as determined by the Agency shall be allocated and credited by it at the end of each year to each reserve account proportionately having regard to the respective balances remaining to the credit of the respective reserve accounts. 1993, c. 23, s. 73 (29).

Idem

(2) The accounts of the Agency with respect to the reserve accounts referred to in subsection (1) shall be kept so as to exhibit at all times the amounts placed to the credit of each reserve account, the interest credited thereon and the payments made in respect thereof. R.S.O. 1990, c. O.40, s. 69 (2); 1993, c. 23, s. 73 (30).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (29, 30) - 15/11/1993

Agency debt retirement account, s. 64 (1) para. 2

70 (1) All amounts placed and remaining to the credit of all municipalities with respect to money received from them under paragraph 2 of subsection 64 (1) shall be deposited with the Agency to the credit of a special consolidated account known as the Agency debt retirement account and that part of the credited amounts that is attributable to each project shall remain as a credit in that account until the expiration of the period of years during which payments must be made with respect to such project under that paragraph. 1993, c. 23, s. 73 (31).

Idem

(2) The interest applicable in each year to the consolidated account as determined by the Agency shall be allocated and credited by the Agency at the end of each year to the respective projects proportionately having regard to the respective balances in the consolidated account from time to time attributable to such projects and the accounts of the Agency with respect to such projects shall be kept so as to exhibit at all times the amounts placed to the credit of each project, the interest credited thereon and the payments made in respect thereof. R.S.O. 1990, c. O.40, s. 70 (2); 1993, c. 23, s. 73 (32).

Discontinuance of further payments

(3) If the Agency is of the opinion that the amount in the consolidated account attributable to a project, together with the further estimated interest on that amount, is at any time sufficient to form an amount equal to the cost of the project at the expiration of the period of years referred to in paragraph 2 of subsection 64 (1), the Agency, subject to subsection (4), may authorize the municipality or municipalities with which there is an agreement with respect to the project to discontinue payments under that paragraph. 1993, c. 23, s. 73 (33).

Excess or deficiency

- (4) If at the expiration of such period of years the amount in the consolidated account attributable to any project,
- (a) is in excess of the cost of the project, the Agency shall within one year thereafter repay to such municipality or municipalities the amount of such excess; or
 - (b) is less than the cost of the project, the municipality or municipalities shall, within one year thereafter, pay to the Agency the amount of such deficiency. R.S.O. 1990, c. O.40, s. 70 (4); 1993, c. 23, s. 73 (34).

Discharge of indebtedness to Province

(5) Despite any other provision of this Act, the Agency may at any time pay to the Province out of the consolidated Agency debt retirement account any amount attributable to any project in payment or part payment of the amount owing for the cost of the project. 1993, c. 23, s. 73 (35).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (31-35) - 15/11/1993

Annual payments to municipalities in lieu of taxes

71 For the purposes of section 27 of the *Assessment Act*, the Agency, with respect to any project in a local municipality, shall be deemed a commission under that section and the project shall be deemed a public utility under that section. R.S.O. 1990, c. O.40, s. 71; 1993, c. 23, s. 73 (36); 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (36) - 15/11/1993

2002, c. 17, Sched. F, Table - 1/01/2003

AGREEMENTS

Overhead charges, Agency agreements

72 A person that has entered or that enters into an agreement under this Act with the Agency for the provision or operation of a sewage works or a water works or the provision of sewage service or water service by the Agency shall pay to the Agency additional charges in respect of the provision or operation in the amount calculated in accordance with the method prescribed by the regulations even though the additional charges may not be attributable to costs incurred for the works or service. R.S.O. 1990, c. O.40, s. 72; 1993, c. 23, s. 73 (37).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (37) - 15/11/1993

Payments under Agency agreements

73 (1) In this section,

“agreement” means an agreement under subsection 10 (2) or section 11. 1993, c. 23, s. 73 (38).

Review and revision of rates

(2) The rates of payment provided for in an agreement may be reviewed and revised annually or, where the parties to the agreement concur, more frequently. R.S.O. 1990, c. O.40, s. 73 (2).

Units of measurement

(3) The rates of payment provided for in an agreement may be stated, and the amounts due under the agreement may be calculated and billed, on the basis of the units of measurement set out in Schedule I to the *Weights and Measures Act* (Canada). R.S.O. 1990, c. O.40, s. 73 (3).

Billing and payment

(4) The Agency may determine the amounts due under an agreement on an annual basis for principal, interest and operating and other costs instead of on the basis of volumes and may require payment of the amounts annually or by way of more frequent periodic payments. R.S.O. 1990, c. O.40, s. 73 (4); 1993, c. 23, s. 73 (39).

(5) REPEALED: 2009, c. 33, Sched. 2, s. 55 (2).

Application of ss. 72, 73

(6) This section and section 72 apply in respect of every agreement referred to in those sections despite the terms of the agreement and whether or not the agreement was made before the 9th day of November, 1983. R.S.O. 1990, c. O.40, s. 73 (6).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (38, 39) - 15/11/1993

2009, c. 33, Sched. 2, s. 55 (2) - 15/12/2009

PUBLIC WATER OR SEWAGE SERVICE AREA

Orders, public water or sewage service areas

74 (1) In this section,

“sewage service” means the acceptance, collection, transmission, storage, treatment and disposal of sewage, or any one or more of them; (“service d’égout”)

“water service” means the taking, collection, production, treatment, storage, supply, transmission, distribution, sale, purchase and use of water, or any one or more of them. (“service d’eau”) R.S.O. 1990, c. O.40, s. 74 (1).

Area of public water or sewage service

(2) Despite any general or special Act or any regulation or order made thereunder, where, in the opinion of a Director, it is in the public interest to do so, the Director may make an order defining and designating an area as an area of public water service or an area of public sewage service, and, by order from time to time, for the purpose of controlling, regulating, prohibiting, requiring or providing water service or sewage service in the area, may,

- (a) impose such terms and conditions in the area as the Director considers necessary;
- (b) require that any contract with respect to water service or sewage service in the area be terminated or amended in accordance with the order; and
- (c) fix and impose rates or charges upon any person in the area for the provision by the Agency of water service or sewage service to the person. R.S.O. 1990, c. O.40, s. 74 (2); 1993, c. 23, s. 73 (40).

Termination or amendment of contracts

(3) Where an order is made by a Director requiring that any contract be terminated or amended, such contract shall be deemed to be terminated and no longer operative or binding upon or against any person or shall be deemed to be amended, as the case may be, in accordance with the order. R.S.O. 1990, c. O.40, s. 74 (3).

Hearing

(4) A Director shall, before making an order under subsection (2), require the Tribunal, by a notice in writing, to hold a hearing. R.S.O. 1990, c. O.40, s. 74 (4); 2000, c. 26, Sched. F, s. 13 (10).

Notice

(5) The Tribunal shall give at least fifteen days notice of the hearing to the clerk of each municipality affected by the proposed order and to such persons and in such manner as the Tribunal considers appropriate. R.S.O. 1990, c. O.40, s. 74 (5); 2000, c. 26, Sched. F, s. 13 (10).

Contents of notice

(6) The notice of hearing shall state that a hearing is not required to be held if no objections to the establishment or extension are made in accordance with subsection 8 (1). R.S.O. 1990, c. O.40, s. 74 (6).

Amending order

(7) A Director may amend the terms and conditions in any order, and may amend the definition or designation of an area in any order, but, before amending the definition or designation of an area, the Director shall comply with the requirements of subsection (4) with respect to the holding of a hearing and the giving of notice thereof. R.S.O. 1990, c. O.40, s. 74 (7).

Amending order

(7.1) The Agency may by order amend the rates or charges referred to in clause (2) (c). 1993, c. 23, s. 73 (41).

Copies of order

(8) A Director or the Agency, as the case may be, shall send a copy of an order made under this section by prepaid mail to the clerk of every municipality and to every other person named in the order, and to such other persons as is considered appropriate. 1993, c. 23, s. 73 (42).

(9) REPEALED: 2009, c. 33, Sched. 2, s. 55 (3).

Compensation

(10) Where a contract is terminated or amended by an order under this section, the Agency shall make due compensation to any person named in the contract as a party thereto for any damage necessarily resulting from the termination or amendment of the contract, as the case may be, beyond any advantage that the person may derive from water service or sewage service provided under the order. R.S.O. 1990, c. O.40, s. 74 (10); 1993, c. 23, s. 73 (43); 2009, c. 33, Sched. 2, s. 55 (4).

Determination of compensation

(11) Subject to this section, a claim for compensation, if not agreed upon by the Agency and the person making the claim, shall be determined by the Board and not otherwise, and the *Ontario Municipal Board Act*, except section 94, applies as far as is practicable to every such claim. R.S.O. 1990, c. O.40, s. 74 (11); 1993, c. 23, s. 73 (44).

Municipality may raise money for payments under order

(12) For the purpose of meeting periodic payments to the Agency under an order made under this section, a municipality may raise money by any method or methods authorized by law or by any combination thereof as if the municipality itself were proposing to construct, were constructing or had constructed water works or sewage works or were operating and maintaining water works or sewage works. R.S.O. 1990, c. O.40, s. 74 (12); 1993, c. 23, s. 73 (45); 2009, c. 33, Sched. 2, s. 55 (5).

Rates in defined area

(13) For the purpose of meeting periodic payments to the Agency under an order made under this section, a municipality may, with the approval of the Board, by by-law define an area that in the opinion of the council of the municipality will derive a benefit from the water service or sewage service provided under the order and may impose a rate or charge upon the owners or occupants of all land in such defined area. R.S.O. 1990, c. O.40, s. 74 (13); 1993, c. 23, s. 73 (45); 2009, c. 33, Sched. 2, s. 55 (6).

(14) REPEALED: 2009, c. 33, Sched. 2, s. 55 (7).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (40-45) - 15/11/1993

2000, c. 26, Sched. F, s. 13 (10) - 6/12/2000

2009, c. 33, Sched. 2, s. 55 (3-7) - 15/12/2009

No petition to Lieutenant Governor in Council

Definition

74.1 (1) In this section,

“old section 74” means section 74 as it read immediately before the day the *Good Government Act, 2009* received Royal Assent. 2009, c. 33, Sched. 2, s. 55 (8).

Not subject to petition

(2) Every order made under the old section 74, or rate or charge imposed by such an order, that is the subject of a petition filed under subsection (9) or (14) of that section, as the case may be, that is not disposed of or withdrawn before the day the *Good Government Act, 2009* receives Royal Assent is deemed not to be subject to petition to the Lieutenant Governor in Council, and shall not be considered or continue to be considered, as the case may be, by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 55 (8).

Same

(3) Every order made under the old section 74, or rate or charge imposed by such an order, that may be the subject of a petition filed under subsection (9) or (14) of that section, as the case may be, is deemed not to be subject to petition to the Lieutenant Governor in Council, and shall not be considered by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 55 (8).

No effect on validity

(4) Nothing in this section affects the validity of an order, or rate or charge imposed by an order, that, but for subsection 55 (3) or (7) of Schedule 2 to the *Good Government Act, 2009* and this section, was or could have been the subject of a petition filed under subsection (9) or (14) of the old section 74. 2009, c. 33, Sched. 2, s. 55 (8).

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 2, s. 55 (8) - 15/12/2009

REGULATIONS

Regulations, general

75 (1) The Lieutenant Governor in Council may make regulations,

- (a) REPEALED: 1997, c. 7, s. 7 (1).
- (b) requiring a person who owns, is in occupation or has the charge, management or control of a source of sewage to monitor, record and report on the sources of sewage including, but not limited to, materials and methods of production used and intended to be used, the wastes and sewage that will or are likely to be generated, the water or watercourse, water works, sewage works or plumbing that may be affected by the discharge of the sewage, and to perform and report to the Director on research respecting methods of reducing or preventing the generation of wastes and sewage from the sources of sewage;
- (c)-(e) REPEALED: 1997, c. 7, s. 7 (1).
- (f) prescribing the rate of interest for the purpose of paragraph 2 of subsection 64 (1);
- (g) REPEALED: 1997, c. 7, s. 7 (1).
- (h) providing for the licensing of sewage works operators and prescribing the qualifications of persons to whom licences may be issued;
- (i) prescribing standards of quality for water supplies, sewage and industrial waste effluents, receiving streams and water courses;
- (j) specifying any matter or substance as sewage for the purposes of any section or sections of this Act or the regulations;
- (k) prescribing operating standards for water works or sewage works;
- (l)-(n) REPEALED: 1997, c. 7, s. 7 (2).
- (o) REPEALED: 1993, c. 23, s. 73 (46).
- (p)-(r) REPEALED: 1997, c. 7, s. 7 (2).
- (s) governing the management of water and sewage and prescribing requirements for water works and sewage works in relation to,
 - (i) planning, design, siting, public notification and consultation, establishment, insurance, facilities, staffing, operation, maintenance, monitoring, record-keeping, submission of reports to the Director and improvement, and
 - (ii) the closure of water works and sewage works;

- (t) deeming an environmental compliance approval to exist in respect of any sewage works to which subsection 53 (1) would apply but for an exemption from the requirement to obtain an environmental compliance approval set out in a regulation;
- (u), (v) REPEALED: 1997, c. 7, s. 7 (4).
- (w) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1990, c. O.40, s. 75 (1); 1993, c. 23, s. 73 (46, 47); 1997, c. 7, s. 7 (1-4); 2001, c. 9, Sched. G, s. 6 (30); 2007, c. 10, Sched. D, s. 2 (7-9); 2010, c. 16, Sched. 7, s. 3 (30).

Regulations, water taking, general

- (1.1) The Lieutenant Governor in Council may make regulations,
 - (a) clarifying whether or not an activity is water taking as described in subsection 1 (7) or otherwise constitutes a water taking for the purposes of this Act;
 - (b) describing more specifically the boundaries of the Great Lakes-St. Lawrence River Basin, the Nelson Basin and the Hudson Bay Basin for the purposes of subsection 34.3 (1);
 - (c) requiring persons who take or use water, including persons who are not required to obtain a permit under this Act for a water taking,
 - (i) to monitor and report to the Director on the amounts of water taken or used and the rate at which it is taken or used, and
 - (ii) to provide to the Director other information that is related to the taking or use, as specified by the Director. 2007, c. 12, s. 1 (15).

Regulations, water taking, ss. 34 to 34.11

- (1.2) The Lieutenant Governor in Council may make regulations relating to sections 34 to 34.11,
 - (a) prescribing an amount of water for the purpose of paragraph 1 of subsection 34 (2);
 - (b) governing the implementation of the provisions listed in subsection (1.3) and,
 - (i) prescribing requirements that apply to the Director under section 34.1 for the purpose of implementing the provisions listed in subsection (1.3) and specifying which decisions of the Director that are subject to the prescribed requirements are also subject to sections 34.10 and 34.11, and
 - (ii) prescribing requirements that apply to the Director under section 47.5 of the *Environmental Protection Act* for the purpose of implementing the provisions listed in subsection (1.3) and specifying which decisions of the Director that are subject to the prescribed requirements are also subject, with necessary modifications, to sections 34.10 and 34.11;
 - (c) governing the manner in which quantities of water are determined for the purposes of sections 34 to 34.11, including,
 - (i) prescribing the manner of calculating average amounts of water,
 - (ii) requiring or authorizing the inclusion, in a quantity of water, of,
 - (A) quantities of water that were previously transferred from a Great Lakes watershed listed in subsection 34.5 (2) to another Great Lakes watershed listed in that subsection,
 - (B) quantities of water for which other applications have been made under section 34.1 for permits, or amendments to permits, that would authorize the transfer of water from a Great Lakes watershed listed in subsection 34.5 (2) to another Great Lakes watershed listed in that subsection,
 - (C) quantities of water that were previously taken from the Great Lakes-St. Lawrence River Basin, or
 - (D) quantities of water for which other applications have been made under section 34.1 for permits, or amendments to permits, that would authorize the taking of water from the Great Lakes-St. Lawrence River Basin;
 - (d) prescribing takings of water or classes of takings of water for the purposes of subsection 34 (3);
 - (e) prescribing terms and conditions for the purposes of subsection 34.1 (7);
 - (f) prescribing classes of persons for the purpose of subclause (b) (ii) of the definition of “related transferor” in subsection 34.5 (1);

- (g) describing the Great Lakes watersheds listed in subsection 34.5 (2);
- (h) governing the interpretation of subsections 34.6 (2) and (3) and, for that purpose, defining words and expressions used in those subsections;
- (i) governing the determination of the amount of water that may be lost through consumptive use for different classes of water takings;
- (j) prescribing an amount for the purpose of paragraph 1 of subsection 34.6 (3), including prescribing different amounts with respect to different classes of water takings;
- (k) prescribing a treaty, agreement or law for the purpose of subparagraph 6 iii of subsection 34.6 (3);
- (l) prescribing criteria for the purpose of paragraph 7 of subsection 34.6 (3);
- (m) prescribing terms and conditions for the purposes of paragraph 2 of subsection 34.7 (1), and directing different terms and conditions to different holders or classes of holders;
- (n) prescribing documents for the purposes of paragraph 3 of subsection 34.7 (9);
- (o) governing decisions made by the Director under subsection 34.8 (1), including,
 - (i) prescribing circumstances in which the Director is required or authorized to deem the holder to currently be transferring an amount of water, and
 - (ii) prescribing methods of determining the amount of water that the holder is deemed to currently be transferring, including methods that take into account paragraph 1 of Article 207 (Applicability) of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005;
- (p) prescribing information for the purposes of subsection 34.8 (3);
- (q) prescribing reciprocating jurisdictions for the purposes of section 34.9. 2007, c. 12, s. 1 (18); 2009, c. 12, Sched. H, s. 4 (1).

Implementation of listed provisions

(1.3) The provisions mentioned in clause (1.2) (b) are Articles 203 (The Decision-Making Standard for Management of Withdrawals and Consumptive Uses), 205 (Proposals Subject to Prior Notice), 209 (Amendments to the Standard and Exception Standard and Periodic Assessment of Cumulative Impacts) and 304 (Water Conservation and Efficiency Program) of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005. 2007, c. 12, s. 1 (18).

Connecting channels of Great Lakes watersheds

(1.4) A regulation made under clause (1.2) (g) may describe the Great Lakes watersheds so that they overlap to include the upstream and downstream connecting channels of each Great Lake. 2007, c. 12, s. 1 (18).

Regulations, efficient use of water

- (1.4.1) The Lieutenant Governor in Council may make regulations relating to section 34.12,
- (a) prescribing appliances and products to which section 34.12 applies;
 - (b) prescribing water efficiency standards or requirements for the appliances or products prescribed under clause (a);
 - (c) regulating the installation, testing, maintenance and repair of appliances and products to which section 34.12 applies;
 - (d) designating persons or organizations to test appliances and products to which section 34.12 applies;
 - (e) providing for the placing of a label or mark prescribed by the regulations on or with appliances and products that conform to the prescribed standards;
 - (f) prescribing the contents of labels or marks that may be placed on or with appliances and products to which section 34.12 applies;
 - (g) prescribing fees that may be charged by designated persons or organizations for the testing and labelling of appliances and products to which section 34.12 applies;
 - (h) providing for information to be reported by persons who manufacture, offer for sale, sell or lease appliances or products to which section 34.12 applies, including the frequency, time and manner for reporting;
 - (i) governing the keeping of information, records and documents by persons who manufacture, offer for sale, sell or lease appliances or products to which section 34.12 applies;

- (j) prescribing dates for the purposes of clause 34.12 (4) (a). 2010, c. 19, Sched. 5, s. 2.

Regulations, charges

(1.5) The Lieutenant Governor in Council may make regulations establishing and governing charges to promote the conservation, protection and management of Ontario's waters and their efficient and sustainable use, or to recover costs the Government of Ontario incurs for that purpose in the administration of this or any other Act, including,

- (a) prescribing the classes of persons who are required to pay the charges;
- (b) prescribing methods for determining the amounts of the charges;
- (c) prescribing the manner and timing of payment of the charges;
- (d) governing the consequences of failing to pay the charges within the required time, including,
 - (i) requiring the payment of interest and late payment penalties, and prescribing how the amounts of interest and late payment penalties are determined,
 - (ii) authorizing the Director to suspend, by order, any licence, permit or approval that has been issued to the person under this Act, or any renewable energy approval that has been issued to the person under the *Environmental Protection Act*, until the charges, and any interest and late payment penalties, are paid,
 - (iii) authorizing the Director to refuse to issue any licence, permit or approval to the person under this Act, or to refuse to issue a renewable energy approval to the person under the *Environmental Protection Act*, until the charges, and any interest and late payment penalties, are paid;
- (e) governing the refund of the charges;
- (f) governing any other matter necessary for the administration of the charges. 2007, c. 12, s. 1 (19); 2009, c. 12, Sched. H, s. 4 (2, 3).

Same

(1.6) A regulation under subsection (1.5) shall not require a person to pay a charge in respect of water unless,

- (a) the person uses the water for commercial or industrial purposes; or
- (b) the person takes or distributes the water, a permit is required under section 34 to take the water, and another person uses the water for commercial or industrial purposes. 2007, c. 12, s. 1 (19).

Water quality trading

(1.7) The Lieutenant Governor in Council may make regulations establishing and governing water quality trading, including,

- (a) prescribing areas of Ontario to which water quality trading applies;
- (b) prescribing water quality parameters to which water quality trading applies;
- (c) prescribing persons or classes of persons to whom water quality trading applies;
- (d) governing the creation, retirement and trading of water quality instruments such as allowances, credits or offsets;
- (e) prescribing requirements that must be met by persons to whom water quality trading applies, including requirements related to the discharge, monitoring and reporting of water quality parameters;
- (f) designating a person or body to administer water quality trading;
- (g) governing any other matter necessary for the administration of water quality trading. 2008, c. 23, s. 30.

Same, application to persons

(1.8) Persons prescribed by a regulation made under clause (1.7) (c) need not be located in an area prescribed under clause (1.7) (a). 2008, c. 23, s. 30.

Same, report

(1.9) A regulation made under subsection (1.7) shall not make water quality trading applicable to any area of Ontario for a water quality parameter unless, before or after subsection (1.7) comes into force,

- (a) the Minister prepares a report on the use of water quality trading in that area for that parameter;
- (b) the report considers,

- (i) the feasibility of water quality trading in that area for that parameter, including an assessment of the potential for water quality trading to improve water quality in the area, and
- (ii) how the matters referred to in clauses (1.7) (c), (d) and (e) should be dealt with in a regulation made under subsection (1.7) if a decision is made to make water quality trading applicable in that area for that parameter;
- (c) the report is published in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993* and members of the public are invited to submit written comments to the Ministry on what actions should be taken by the Government of Ontario in response to the report;
- (d) after considering comments submitted under clause (c), the Minister publishes a statement in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993* that summarizes the actions that the Government of Ontario intends to take in response to the report; and
- (e) after publishing the statement under clause (d), notice of a proposal to make the regulation is given under sections 16 and 27 of the *Environmental Bill of Rights, 1993* and the notice includes a statement describing how the comments submitted under clause (c) were taken into account in designing the proposal. 2008, c. 23, s. 30.

Same, subdelegation

(1.10) A regulation under subsection (1.7) may authorize a person or body to prescribe, govern, designate or otherwise determine any matter that may be prescribed, governed, designated or otherwise determined by the Lieutenant Governor in Council under subsection (1.7), other than a matter described in clause (1.7) (a) or (b). 2009, c. 33, Sched. 15, s. 8 (7).

Wells

- (2) The Lieutenant Governor in Council may make regulations relating to sections 35 to 50,
 - (a) designating areas for the purpose of section 36;
 - (b), (c) REPEALED: 1997, c. 7, s. 7 (5).
 - (d) prescribing information, samples and reports that persons constructing wells shall provide during and upon completion of the constructing of the wells and specifying to whom the information, samples and reports shall be provided;
 - (e) prescribing procedures that shall be followed during and upon completion of the constructing of wells by the persons who construct the wells;
 - (f) prescribing terms that shall be deemed to be part of every contract for the construction of a well;
 - (g) prescribing and requiring the use of signs, markings and other identification of vehicles, machines and equipment used in the construction of wells;
 - (h)-(j) REPEALED: 1997, c. 7, s. 7 (5).
 - (k) prescribing standards for the construction, use, maintenance, cleaning, testing, disinfecting and decontamination of wells and requiring compliance with such standards;
 - (l) prescribing circumstances in which wells shall be abandoned and requiring their abandonment in such circumstances;
 - (m) prescribing standards to be complied with when wells are abandoned and requiring compliance with such standards;
 - (n) REPEALED: 1997, c. 7, s. 7 (5).
 - (o) prescribing and requiring the use of methods of obtaining information to be included in records and returns of information;
 - (p) respecting the examination of applicants for well contractor licences and well technician licences and renewals thereof;
 - (q) prescribing requirements and standards of qualification for well contractor licences and well technician licences;
 - (r) prescribing or approving work experience for qualification for well technician licences;
 - (s)-(v) REPEALED: 1997, c. 7, s. 7 (5).
 - (w) requiring persons engaged in the business of constructing wells to carry insurance or furnish bonds or both and fixing the amount, type, form and particulars of the insurance or bond.
 - (x) REPEALED: 1997, c. 7, s. 7 (5).

R.S.O. 1990, c. O.40, s. 75 (2); 1997, c. 7, s. 7 (5); 2001, c. 9, Sched. G, s. 6 (31).

- (3) REPEALED: 1992, c. 23, s. 39 (3).

(4), (5) REPEALED: 1997, c. 7, s. 7 (6).

(6) REPEALED: 1992, c. 23, s. 39 (4).

(7)-(12) REPEALED: 1993, c. 23, s. 73 (48).

Section Amendments with date in force (d/m/y)

1992, c. 23, s. 39 (3, 4) - 1/07/1993; 1993, c. 23, s. 73 (46, 48) - 15/11/1993; 1997, c. 7, s. 7 (1-6) - 5/06/1997

2001, c. 9, Sched. G, s. 6 (30, 31) - 29/06/2001

2007, c. 10, Sched. D, s. 2 (7-9) - 4/06/2007; 2007, c. 12, s. 1 (15, 16) - 4/06/2007; 2007, c. 12, s. 1 (17, 18) - 1/01/2015; 2007, c. 12, s. 1 (19) - 1/09/2007

2008, c. 23, s. 30 - 01/07/2017

2009, c. 12, Sched. H, s. 4 (1) - 1/01/2015; 2009, c. 12, Sched. H, s. 4 (2, 3) - 24/09/2009; 2009, c. 33, Sched. 15, s. 8 (7) - 15/12/2009

2010, c. 16, Sched. 7, s. 3 (30) - 31/10/2011; 2010, c. 19, Sched. 5, s. 2 - 29/11/2010

Regulations, further matters

76 (1) The Lieutenant Governor in Council may make regulations relating to this Act,

- (a) exempting any person, operator, licence, permit, approval, holder of a licence, permit or approval, activity, area, location, substance, material, water works, water service, sewage works, sewage service, well, discharge or thing from any provision of this Act or the regulations and prescribing conditions for the exemptions from this Act and the regulations;
- (b) prohibiting, regulating or controlling (including prescribing conditions for the prohibition, regulation or control of),
 - (i) mains, service pipes, valves, hydrants and all other works that form part of or are connected with water works,
 - (ii) the manner in which the service pipes of users of water are to be connected with the mains of the water works supplying the water,
 - (iii) sewers, drain pipes, maintenance holes, gully traps and all other works that form part of or are connected with sewage works,
 - (iv) the manner in which building sewers are to be connected with sewage works,
 - (v) the content of sewage entering sewage works,
 - (vi) the taking, use or transfer of water from any source of supply,
 - (vi.1) the transfer of sewage between Great Lakes watersheds listed in subsection 34.5 (2),
 - (vii) the location, spacing, use, cleaning, testing, disinfecting and decontaminating of wells, and
 - (viii) the methods and materials used in the construction of wells and the maintenance of wells;
- (b.1) requiring the taking of measures to promote the conservation of water, including,
 - (i) the preparation of water conservation plans, the submission of those plans to the Director, the amendment of those plans if required by the Director, and the implementation of those plans, and
 - (ii) other measures to promote the efficient use of water or reduce the loss of water through consumptive use;
- (c) governing and requiring the payment of fees to the Crown or to any other person or body specified by the regulations, including prescribing the amounts or the method of calculating the amounts of the fees, and governing the procedure for the payment,
 - (i) in respect of an approval, permit or renewal of permit, licence or renewal of licence, examination, inspection or certification,
 - (ii) in respect of any registration or record required by this Act or the regulations,
 - (iii) in respect of an activity pursuant to a provision of a regulation that exempts a person from the requirement to obtain an approval, permit or licence, or
 - (iv) in respect of the supply of information, services, or copies of documents, maps, plans, recordings or drawings;

- (d) providing for the retention by a person or body specified by the regulations of all or part of the fees paid, under this Act, to the person or body;
- (e) providing for refunds of fees paid under this Act to the Crown or to a person or body specified by the regulations;
- (f) providing for the issue, renewal, suspension and revocation of approvals, permits and licences, and prescribing conditions for the issuing, renewing, suspending and revoking;
 - (f.1) governing applications for the issue, renewal and revocation of approvals, permits and licences;
 - (f.2) governing the inclusion of terms and conditions in approvals, permits and licences;
- (g) prescribing documents or data required to be created, stored and submitted by any person and the methods of creating, storing and submitting the documents and data;
 - (g.1) prescribing the location at which documents or data must be created or stored;
 - (g.2) providing for the inspection and examination of documents and data;
 - (g.3) providing for the preparation and signing of documents by electronic means, the filing of documents by direct electronic transmission and the printing of documents filed by direct electronic transmission;
- (h) providing for forms and their use;
- (i) providing for the method of service of any document given or served under this Act;
 - (i.1) deeming a person to be a person involved in carrying out a program of the Ministry or the Agency for the purpose of subsection 98 (2);
 - (j) prescribing or respecting any matter that this Act refers to as a matter prescribed by the regulations or as otherwise dealt with by the regulations. 1997, c. 7, s. 8; 1998, c. 35, s. 62; 2001, c. 9, Sched. G, s. 6 (33); 2007, c. 12, s. 1 (20-24); 2009, c. 33, Sched. 15, s. 8 (8).

Return of transferred water

(2) Without limiting the generality of subclause (1) (b) (vi), a regulation under that subclause may require water transferred between Great Lakes watersheds listed in subsection 34.5 (2) to be returned to the Great Lakes watershed from which it was taken. 2007, c. 12, s. 1 (25).

Section Amendments with date in force (d/m/y)

1997, c. 7, s. 8 - 5/06/1997; 1998, c. 35, s. 62 - 1/02/1999

2001, c. 9, Sched. G, s. 6 (32) - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011; 2001, c. 9, Sched. G, s. 6 (33) - 29/06/2001

2007, c. 12, s. 1 (20, 21, 24, 25) - 4/06/2007; 2007, c. 12, s. 1 (22, 23) - 1/01/2015

2009, c. 33, Sched. 15, s. 8 (8) - 15/12/2009

Scope of regulations

77 (1) A regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation. 1997, c. 7, s. 8.

Classes

(2) A regulation may apply in respect of any class of activity, matter, person or thing. 1997, c. 7, s. 8.

Same

(3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics. 1997, c. 7, s. 8.

Adoption of documents in regulations

(4) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any document, including a code, formula, standard, protocol, or procedure, and may require compliance with any document so adopted. 2010, c. 16, Sched. 7, s. 3 (31).

Rolling incorporation by reference

(5) The power to adopt by reference and require compliance with a document in subsection (4) includes the power to adopt a document as it may be amended from time to time. 2010, c. 16, Sched. 7, s. 3 (32).

When effective

(6) The adoption of an amendment to a document that has been adopted by reference comes into effect upon the Ministry publishing notice of the amendment in *The Ontario Gazette* or in the registry under the *Environmental Bill of Rights, 1993*. 1997, c. 7, s. 8; 2010, c. 16, Sched. 7, s. 3 (33).

Section Amendments with date in force (d/m/y)

1997, c. 7, s. 8 - 5/06/1997

2010, c. 16, Sched. 7, s. 3 (31-33) - 25/10/2010

Bar of action, regulatory exemptions

78 No action or other proceeding shall be brought against the Crown, the Minister or an employee or agent of the Crown because of anything arising out of or in relation to a matter carried on or purported to be carried on pursuant to a regulation that exempts a person from the requirement to obtain an approval, licence or permit. 1997, c. 7, s. 8.

Section Amendments with date in force (d/m/y)

1997, c. 7, s. 8 - 5/06/1997

79 REPEALED: 1992, c. 23, s. 39 (5).

Section Amendments with date in force (d/m/y)

1992, c. 23, s. 39 (5) - 1/07/1993

WORK DONE BY MINISTRY

Minister may cause things to be done

80 (1) Where a direction, order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the direction, order or decision.

Exception

(2) Subsection (1) does not apply in respect of reports made under section 62. R.S.O. 1990, c. O.40, s. 80.

Director may cause things to be done

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

(a) a person required by the direction, order or decision to do the thing,

(i) has refused to comply with or is not complying with the direction, order or decision,

(ii) is not likely, in the Director's opinion, to comply with the direction, order or decision promptly,

(iii) is not likely, in the Director's opinion, to carry out the direction, order or decision competently, or

(iv) requests the assistance of the Director in complying with the direction, order or decision;

(a.1) a receiver or trustee in bankruptcy is not required to do the thing because of subsection 13 (5) or 89.12 (7); or

(b) in the Director's opinion, it would be in the public interest to do so. R.S.O. 1990, c. O.40, s. 81 (1); 2001, c. 17, s. 5 (4).

Exception

(2) Subsection (1) does not apply in respect of reports made under section 62. R.S.O. 1990, c. O.40, s. 81 (2).

Notice of intent to cause things to be done

(3) The Director shall give notice of an intention to cause a thing to be done under this section to each person required by a direction, order or decision made under this Act to do the thing. R.S.O. 1990, c. O.40, s. 81 (3).

Idem

(4) A person who receives a notice under subsection (3) shall not do the thing referred to in the notice without the permission of the Director. R.S.O. 1990, c. O.40, s. 81 (4).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (4) - 1/12/2002

Person liable unknown: Director may cause things to be done

82 Where the Director is authorized by this Act to make a direction, order or decision requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done. R.S.O. 1990, c. O.40, s. 82.

ss. 89.1 to 89.14: Director may cause things to be done

82.1 (1) If, but for sections 89.1 to 89.14, the Director or a provincial officer would be authorized by this Act to make a direction or order requiring a person to do a thing, the Director may cause the thing to be done. 2001, c. 17, s. 5 (5).

Same

(2) Subsection (1) applies even if the Director is authorized to make a direction or order requiring another person to do the thing. 2001, c. 17, s. 5 (5).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (5) - 1/12/2002

Powers of entry, ss. 80-82.1

Entry without judicial order

83 (1) A person who is responsible for doing a thing under section 80, 81, 82 or 82.1 may, for the purpose, enter on or into any land or place on or in which the thing is to be done and any adjacent land or place without an order if,

- (a) the entry is made with the consent of an occupier or owner of the land or place; or
- (b) the delay necessary to obtain an order under subsection (2) would result in,
 - (i) danger to the health or safety of any person,
 - (ii) impairment or serious risk of impairment of any waters or any use of waters, or
 - (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 1998, c. 35, s. 63 (1); 2001, c. 17, s. 5 (6).

Order authorizing entry

(2) A justice who is satisfied on evidence under oath that there is reasonable ground to believe that entry on land or into or on a place is necessary for the purpose of doing a thing under section 80, 81, 82 or 82.1, may issue an order authorizing the person named in the order to make the entry and do the thing. 1998, c. 35, s. 63 (1); 2001, c. 17, s. 5 (7).

Execution and expiry of order

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

- (a) specify the times, which may be twenty-four hours each day, during which the order may be carried out; and
- (b) state when the order expires. R.S.O. 1990, c. O.40, s. 83 (3); 1998, c. 35, s. 63 (2).

Renewal

(4) Before or after the order expires, a justice may renew the order, for such additional periods as the justice considers necessary. 1998, c. 35, s. 63 (3).

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter on land or a place for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing. R.S.O. 1990, c. O.40, s. 83 (5); 1998, c. 35, s. 63 (4).

Assistance

(6) A person named in an order issued under subsection (2) may call on any other persons he or she considers advisable to execute a warrant. R.S.O. 1990, c. O.40, s. 83 (6); 1998, c. 35, s. 63 (5).

Application without notice

(7) A justice may receive and consider an application for an order or a renewal of an order under this section without notice to the owner or occupier of the land or place. 1998, c. 35, s. 63 (6).

Identification

(8) On the request of an owner or occupier of the land or place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry. R.S.O. 1990, c. O.40, s. 83 (8); 1998, c. 35, s. 63 (7).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 63 (1-7) - 1/02/1999

2001, c. 17, s. 5 (6, 7) - 1/12/2002

Order to pay costs

84 (1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by a direction, order or decision made under this Act to do the thing. R.S.O. 1990, c. O.40, s. 84 (1).

Idem

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a direction, order or decision requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person. R.S.O. 1990, c. O.40, s. 84 (2).

Same

(2.1) If the Minister or Director has caused any thing to be done under this Act in circumstances where, pursuant to subsection 13 (5) or 89.12 (7) or a stay granted under Part I of the *Bankruptcy and Insolvency Act* (Canada), a receiver or trustee in bankruptcy was not required to do the thing, the Director may issue an order to the receiver or trustee in bankruptcy to pay the costs of doing the thing. 2001, c. 17, s. 5 (8).

Same

(2.2) If an order to pay the costs of doing a thing is issued under subsection (1), (2) or (2.1) to a receiver or trustee in bankruptcy, the receiver or trustee in bankruptcy is not personally liable for those costs unless the direction, order or decision that required the thing to be done arose from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy or of a receiver representative or trustee in bankruptcy representative. 2001, c. 17, s. 5 (8).

Order to pay: contents

(3) An order under subsection (1), (2) or (2.1) to pay costs shall include,

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and
- (c) a direction that the person to whom the order is issued pay the costs to the Minister of Finance R.S.O. 1990, c. O.40, s. 84 (3); 2001, c. 9, Sched. G, s. 6 (34); 2001, c. 17, s. 5 (9).

Idem

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. R.S.O. 1990, c. O.40, s. 84 (4).

Joint and several liability

(5) Where two or more persons are liable to pay costs pursuant to an order under subsection (1), (2) or (2.1), they are jointly and severally liable to Her Majesty in right of Ontario. 2005, c. 12, s. 2 (13).

Contribution and indemnity

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

1. Where the Director is entitled to issue an order to two or more persons under subsection (1), (2) or (2.1) in respect of costs and one or more of them caused or contributed to the costs by fault or negligence, such one or more of them shall make contribution to and indemnify,

- i. where one person is found at fault or negligent, any other person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1), and
 - ii. where two or more persons are found at fault or negligent, each other and any other person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) in the degree in which each of such two or more persons caused or contributed to the costs by fault or negligence.
2. For the purpose of subparagraph 1 ii, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) caused or contributed to the costs, such two or more persons shall be deemed to be equally at fault or negligent.
 3. Where no person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) caused or contributed to the costs by fault or negligence, each of the persons to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances. 2005, c. 12, s. 2 (13).

Enforcement of contribution

(7) The right to contribution or indemnification under subsection (6) may be enforced by action in a court of competent jurisdiction. 2005, c. 12, s. 2 (13).

Adding parties

(8) Wherever it appears that a person not already a party to an action under subsection (7) may be a person to whom the Director is entitled to issue an order under subsection (1), (2) or (2.1) in respect of the costs, the person may be added as a party defendant to the action on such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of court for adding third parties. 2005, c. 12, s. 2 (13).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (34) - 29/06/2001; 2001, c. 17, s. 5 (8, 9) - 1/12/2002

2005, c. 12, s. 2 (13) - 13/06/2005

Costs specified in order to pay may be increased by Tribunal

85 At a hearing by the Tribunal on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Tribunal to amend the order by adding new items of cost or by increasing the amounts set out in the order. R.S.O. 1990, c. O.40, s. 85; 2000, c. 26, Sched. F, s. 13 (13).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

What Tribunal may consider at hearing on subs. 84 (1) or (2.1) order to pay

86 (1) At a hearing by the Tribunal on an order under subsection 84 (1) or (2.1) to a person to pay the costs of doing things, the Tribunal shall consider only whether any of the costs specified in the order,

- (a) do not relate to a thing that the person was required to do by a direction, order or decision made under this Act, as amended by any Tribunal decision or on any appeal from an Tribunal decision; or
- (b) are unreasonable having regard to what was done. R.S.O. 1990, c. O.40, s. 86; 2000, c. 26, Sched. F, s. 13 (13); 2005, c. 12, s. 2 (14).

Same, receiver or trustee in bankruptcy

(2) For the purpose of subsection (1), if the order under subsection 84 (1) or (2.1) was issued to a receiver or trustee in bankruptcy,

- (a) the receiver or trustee in bankruptcy shall be deemed to have been required to do any thing that was required to be done by the person whose property the receiver or trustee in bankruptcy holds or administers; and
- (b) the receiver or trustee in bankruptcy shall be deemed to have been required to do a thing that, pursuant to subsection 13 (5) or 89.12 (7), the receiver or trustee in bankruptcy was not required to do. 2001, c. 17, s. 5 (10).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2001, c. 17, s. 5 (10) - 1/12/2002

2005, c. 12, s. 2 (14) - 13/06/2005

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

87 (1) An order to pay costs may be filed with the Superior Court of Justice and enforced as if it were an order of the court. R.S.O. 1990, c. O.40, s. 87 (1); 2001, c. 9, Sched. G, s. 6 (50).

Interest

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. R.S.O. 1990, c. O.40, s. 87 (2).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (50) - 29/06/2001

Recovery of costs under order, general

88 (1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on land is a thing done in connection with that land, whether or not the work is done on that land. R.S.O. 1990, c. O.40, s. 88 (1).

Lien

(2) If an order to pay costs is directed to a person who owns land in a local municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that land, the municipality shall have a lien on the land for those amounts and they shall have priority lien status, as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be, and shall be added by the treasurer of the municipality to the tax roll. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 45 (5).

Idem

(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 379 (7) (b) of the *Municipal Act, 2001* or clause 350 (7) (b) of the *City of Toronto Act, 2006*. R.S.O. 1990, c. O.40, s. 88 (3); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 45 (6).

Idem

(4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Minister of Finance. R.S.O. 1990, c. O.40, s. 88 (4); 2001, c. 9, Sched. G, s. 6 (35).

Definition

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

“cancellation price” has the same meaning as in Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 45 (7).

Proceeds of tax sale

(6) Where there is a sale of land under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006* and amounts are payable out of the proceeds to the Minister of Finance under this Act, the *Environmental Protection Act* or the *Fire Protection and Prevention Act, 1997*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. R.S.O. 1990, c. O.40, s. 88 (6); 2001, c. 9, Sched. G, s. 6 (36); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 45 (8).

Cancellation price

(7) Despite Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, the treasurer of a municipality may sell land under those Parts for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Environmental Protection Act* and the *Fire Protection and Prevention Act, 1997*, and the purchaser may be declared to be the successful purchaser under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 45 (9).

Territory without municipal organization

(8) If an order to pay costs is directed to a person who owns land in territory without municipal organization and if the Director gives written notice to the Minister of Finance of the amounts specified in that order that relate to things done in connection with the land, requesting the collection of the amounts under the *Provincial Land Tax Act, 2006*, the amounts may be collected under that Act as if they were taxes imposed under it. 2006, c. 33, Sched. Z.3, s. 25.

Identification of amounts

(9) An instruction under subsection (2) or a notice under subsection (8) shall state which of the amounts specified in the order relate to things done in connection with the land. 2006, c. 33, Sched. Z.3, s. 25.

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (35-37) - 29/06/2001

2002, c. 17, Sched. F, Table - 1/01/2003

2006, c. 32, Sched. C, s. 45 (5-9) - 1/01/2007; 2006, c. 33, Sched. Z.3, s. 25 - 1/01/2009

Costs may be recovered from deposit or financial assurance

89 Where an order to pay costs is directed to a person who has given a deposit under a regulation made under the *Environmental Protection Act* or is in respect of works or property for which financial assurance is required under Part XII of that Act or a regulation made under clause 176 (2.4) (i) of that Act, the deposit or financial assurance may be used to recover amounts specified in the order to pay costs. 2010, c. 16, Sched. 7, s. 3 (34).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (11) - 1/12/2002

2010, c. 16, Sched. 7, s. 3 (34) - 31/10/2011

RECORDS OF SITE CONDITION

Definitions re: records of site condition, ss. 89.2 to 89.3

89.1 In sections 89.2, 89.2.1, 89.2.2 and 89.3,

“certificate of property use” has the same meaning as in the *Environmental Protection Act*; (“certificat d’usage d’un bien”)

“certification date” has the same meaning as in the *Environmental Protection Act*; (“date d’attestation”)

Note: On a day to be named by proclamation of the Lieutenant Governor, section 89.1 is amended by the Statutes of Ontario, 2007, chapter 7, Schedule 30, subsection 1 (2) by adding the following definition:

“contaminant” has the same meaning as in the *Environmental Protection Act*; (“contaminant”)

See: 2007, c. 7, Sched. 30, ss. 1 (2), 8 (2).

“land” has the same meaning as in the *Environmental Protection Act*; (“terrain”)

“Registry” means the Environmental Site Registry established under Part XV.1 of the *Environmental Protection Act*; (“Registre”)

Note: On a day to be named by proclamation of the Lieutenant Governor, section 89.1 is amended by the Statutes of Ontario, 2007, chapter 7, Schedule 30, subsection 1 (2) by adding the following definition:

“sensitive property use” has the same meaning as in section 168.7.1 of the *Environmental Protection Act*. (“usage sensible d’un bien”)

See: 2007, c. 7, Sched. 30, ss. 1 (2), 8 (2).

“water” has the same meaning as in the *Environmental Protection Act*. (“eau”) 2007, c. 7, Sched. 30, s. 1 (1).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (12) - 1/10/2004

2007, c. 7, Sched. 30, s. 1 (1) - 17/05/2007; 2007, c. 7, Sched. 30, s. 1 (2) - not in force

Consequences of filing record of site condition

89.2 (1) If a record of site condition is filed in the Registry in accordance with section 168.4 of the *Environmental Protection Act* with respect to a property, no order shall be issued to any of the following persons under section 16, 16.1 or 32 in respect of material that was discharged into the natural environment before the certification date and was on, in or under the property as of the certification date:

1. The person who filed or who submitted for filing the record of site condition or a subsequent owner of the property.
2. A person who is in occupation of the property or who was in occupation of the property at any time after the record of site condition was filed.

3. A person who has charge, management or control of the property or who had charge, management or control of the property at any time after the record of site condition was filed.
4. A person who meets the requirements prescribed by the regulations referred to in paragraph 4 of subsection 168.7 (1) of the *Environmental Protection Act* and who, before the certification date,
 - i. owned the property,
 - ii. was in occupation of the property, or
 - iii. had charge, management or control of the property. 2001, c. 17, s. 5 (12); 2007, c. 7, Sched. 30, s. 2 (1, 2).

False or misleading information, etc.

(2) Subsection (1) does not apply if the record of site condition contains false or misleading information or false or misleading certifications. 2007, c. 7, Sched. 30, s. 2 (3).

Material that moves to other property

(3) Subsection (1) does not apply if, after the certification date, any of the material moved from the property to which the record of site condition relates to another property. 2001, c. 17, s. 5 (12).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed by the Statutes of Ontario, 2007, chapter 7, Schedule 30, subsection 2 (4) and the following substituted:

Material that moves to other property

(3) Subject to section 89.2.1, subsection (1) does not apply if, after the certification date, any of the material moved from the land or water on, in or under the property for which a record of site condition has been filed to another property. 2007, c. 7, Sched. 30, s. 2 (4).

See: 2007, c. 7, Sched. 30, ss. 2 (4), 8 (2).

Sewage works and water works

(4) Despite subsection (1), if a sewage works or water works is located on the property to which the record of site condition relates, an order may be issued under section 16.1 or 32 in respect of the sewage works or water works. 2001, c. 17, s. 5 (12).

Order if material moves

(4.1) Despite subsection (3), if, after the certification date, any of the material moved from the land or water on, in or under the property for which a record of site condition has been filed to another property as a result of a person contravening,

- (a) a term or condition of a certificate of property use or of an order referred to in clause 168.7 (5) (b) of the *Environmental Protection Act*; or
- (b) a provision of a regulation referred to in subsection 168.7 (6) of that Act,

subsection (1) does not apply, but solely in respect of that person. 2007, c. 7, Sched. 30, s. 2 (5).

Consent order

(5) Subsection (1) does not apply if the person to whom the order is issued consents in writing to the order. 2001, c. 17, s. 5 (12).

Interpretation

(6) This section shall not be construed as affecting any cause of action that a person would have in the absence of this section. 2001, c. 17, s. 5 (12).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (12) - 1/10/2004

2007, c. 7, Sched. 30, s. 2 (1, 3, 5) - 17/05/2007; 2007, c. 7, Sched. 30, s. 2 (2) - 1/07/2011; 2007, c. 7, Sched. 30, s. 2 (4) - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by the Statutes of Ontario, 2007, chapter 7, Schedule 30, section 3 by adding the following section:

Material moving to other property

Application

89.2.1 (1) This section applies to a property for which a record of site condition has been filed in the Registry in accordance with section 168.4 of the *Environmental Protection Act* when, after the certification date, material has moved from the land

or water on, in or under the property to another property, if the certifications described in section 168.7.1 of that Act, if applicable, are made. 2007, c. 7, Sched. 30, s. 3.

Exception, full depth background site condition standards

(2) Subsection 89.2 (3) does not apply to material that has moved from the land or water on, in or under the property for which a record of site condition has been filed to another property if the material contains a contaminant at a concentration that does not exceed the applicable full depth background site condition standard for that contaminant, if the record of site condition contains a certification under sub-subparagraph 4 i A of subsection 168.4 (1) of the *Environmental Protection Act*. 2007, c. 7, Sched. 30, s. 3.

Exception, sensitive property use

(3) Subsection 89.2 (3) does not apply to material that has moved from the land or water on, in or under the property for which a record of site condition has been filed to another property if the material contains a contaminant at a concentration that does not exceed the applicable site condition standard for that contaminant, if the record of site condition contains a certification under sub-subparagraph 4 i B or 4 i C of subsection 168.4 (1) of the *Environmental Protection Act* and the type of property use specified under paragraph 3 of subsection 168.4 (2) of the *Environmental Protection Act* in the record of site condition is a sensitive property use. 2007, c. 7, Sched. 30, s. 3.

Exception, not a sensitive property use

(4) If a record of site condition contains a certification under sub-subparagraph 4 i B or 4 i C of subsection 168.4 (1) of the *Environmental Protection Act* and the type of property use specified under paragraph 3 of subsection 168.4 (2) of the *Environmental Protection Act* in the record of site condition is not a sensitive property use, subsection 89.2 (3) does not apply to material that has moved from the land or water on, in or under the property for which a record of site condition has been filed to another property if the material contains a contaminant at a concentration that,

- (a) does not exceed the applicable site condition standard for that contaminant, if the record of site condition contains a certification described in clause 168.7.1 (7) (a) of the *Environmental Protection Act*; or
- (b) does not exceed the applicable site condition standard for that contaminant that would have applied to the property if the type of property use specified under paragraph 3 of subsection 168.4 (2) of the *Environmental Protection Act* in the record of site condition were a sensitive property use, if the record of site condition contains a certification described in clause 168.7.1 (7) (b) of that Act. 2007, c. 7, Sched. 30, s. 3.

Reference to site condition standard

(5) A reference in this section to an applicable site condition standard for a contaminant means the site condition standard that applied to the contaminant as of the certification date set out in the record of site condition or, in the case of a reference in clause (4) (b), means the site condition standard that would have applied to the contaminant as of the certification date set out in the record of site condition. 2007, c. 7, Sched. 30, s. 3.

Non-application to person who caused or permitted discharge

(6) This section does not apply to a person who, before the certification date, caused or permitted the discharge into the natural environment of the material referred to in subsection (1). 2007, c. 7, Sched. 30, s. 3.

See: 2007, c. 7, Sched. 30, ss. 3, 8 (2).

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 30, s. 3 - not in force

Notice of order to be filed in Registry

89.2.2 (1) The Director shall file notice of the order in the Registry in accordance with the regulations referred to in subsection 168.7.2 (1) of the *Environmental Protection Act* if an order is issued under section 16, 16.1 or 32 with respect to a property for which a record of site condition has been filed in accordance with section 168.4 of the *Environmental Protection Act*, and if,

- (a) pursuant to subsection 89.2 (2), (3) or (4.1), subsection 89.2 (1) does not apply; or
- (b) subsection 89.2 (4) applies. 2007, c. 7, Sched. 30, s. 4.

Notice of compliance

(2) If the Director is satisfied that an order referred to in subsection (1) has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations referred to in subsection 168.7.2 (2) of the *Environmental Protection Act*. 2007, c. 7, Sched. 30, s. 4.

Filing of new record of site condition

(3) If the Director is satisfied that an order referred to in subsection (1) has been complied with, but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (2) does not apply until a new record of site condition is filed in accordance with section 168.4 of the *Environmental Protection Act*. 2007, c. 7, Sched. 30, s. 4.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 30, s. 4 - 1/07/2011

Emergencies relating to old material

89.3 (1) If a record of site condition is filed in the Registry in accordance with section 168.4 of the *Environmental Protection Act* with respect to a property, the Director may issue an order described in subsection (2) to the person who owns the property if the Director has reasonable grounds to believe that, as a result of the presence of material that was on, in or under the property as of the certification date, there is danger to the health or safety of any person. 2001, c. 17, s. 5 (12); 2007, c. 7, Sched. 30, s. 5.

Scope of order

(2) An order under subsection (1) may only require the owner, within such times as are specified in the order, to comply with such directions specified in the order as are reasonably necessary to ensure that there is no danger to the health or safety of any person. 2001, c. 17, s. 5 (12).

Same

(3) The directions referred to in subsection (2) may include the following:

1. A direction requiring the doing of anything mentioned in section 32.
2. A direction requiring the removal or disposal of the material or anything affected by the material.
3. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing.
4. If the presence or discharge of the material has damaged or endangered or is likely to damage or endanger existing water supplies, a direction to provide temporary or permanent alternate water supplies. 2001, c. 17, s. 5 (12); 2005, c. 12, s. 2 (15).

Information to be included in order

(4) An order under subsection (1) shall briefly describe the reasons for the order and the circumstances on which the reasons are based. 2001, c. 17, s. 5 (12).

Notice of order to be filed in Registry

(5) The Director shall file notice of an order under subsection (1) in the Registry in accordance with the regulations referred to in subsection 168.8 (5) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (12).

Notice of compliance with order

(6) If the Director is satisfied that an order under subsection (1) has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations referred to in subsection 168.8 (6) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (12).

Filing of new record of site condition

(7) If the Director is satisfied that an order under subsection (1) has been complied with but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (6) does not apply until a new record of site condition is filed in accordance with section 168.4 of the *Environmental Protection Act*. 2001, c. 17, s. 5 (12).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (12) - 1/10/2004

2005, c. 12, s. 2 (15) - 13/06/2005

2007, c. 7, Sched. 30, s. 5 - 17/05/2007

SPECIAL PROVISIONS APPLICABLE TO MUNICIPALITIES, SECURED CREDITORS, RECEIVERS, TRUSTEES IN BANKRUPTCY,
FIDUCIARIES AND PROPERTY INVESTIGATORS

Definitions, ss. 89.4-89.14

89.4 In this section and in sections 89.5 to 89.14,

“certification date” has the same meaning as in the *Environmental Protection Act*; (“date d’attestation”)

“contaminant” has the same meaning as in the *Environmental Protection Act*; (“contaminant”)

“fiduciary property” means property held or administered by a fiduciary in the capacity of fiduciary, or property in respect of which a fiduciary has powers or duties in the capacity of fiduciary; (“bien fiduciaire”)

“non-municipal property” means, with respect to a municipality, property that is not owned, leased or occupied by the municipality; (“bien non municipal”)

“Registry” means the Environmental Site Registry established under Part XV.1 of the *Environmental Protection Act*. (“Registre”) 2001, c. 17, s. 5 (13); 2007, c. 7, Sched. 30, s. 6.

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2007, c. 7, Sched. 30, s. 6 - 17/05/2007

Interpretation, ss. 89.6-89.14

89.5 Sections 89.6 to 89.14 shall not be construed as affecting any cause of action that a person would have in the absence of those sections. 2001, c. 17, s. 5 (13).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

Actions taken by municipalities

89.6 (1) A municipality or a municipal representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) a person who manages or has control of a facility for the purpose of subsection 16.1 (1);
- (b) a person who manages or has control of a sewage works for the purpose of subsection 16.2 (1);
- (c) a person who manages or has control of a sewage works, water works or other facility for the purpose of section 32; or
- (d) a person to whom a direction may be issued under section 61. 2001, c. 17, s. 5 (13); 2007, c. 10, Sched. D, s. 2 (10, 11).

Actions

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to non-municipal property.
2. Any action taken for the purpose of preserving or protecting non-municipal property, including action to,
 - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
 - ii. secure the property by means of locks, gates, fences, security guards or other means, or
 - iii. ensure that the property is insured under a contract of insurance.
3. Any action taken on non-municipal property for the purpose of responding to,
 - i. any danger to the health or safety of any person that results from the presence or discharge of material on, in or under the property,
 - ii. any impairment or serious risk of impairment of any waters or any use of waters that results from the presence or discharge of material on, in or under the property, or

- iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of material on, in or under the property.
- 4. Any action taken with respect to non-municipal property to exercise a right under any Act to collect rent or levy by distress in relation to an unpaid amount.
- 5. Any action taken on non-municipal property under or for the purpose of Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*.
- 6. Any action taken on non-municipal property under or for the purpose of the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1997* or an Act prescribed by the regulations referred to in paragraph 6 of subsection 168.12 (2) of the *Environmental Protection Act*.
- 7. Any other action prescribed by the regulations referred to in paragraph 7 of subsection 168.12 (2) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13); 2002, c. 17, Sched. C, s. 19 (1); 2006, c. 32, Sched. C, s. 45 (10).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2002, c. 17, Sched. C, s. 19 (1) - 1/01/2003

2006, c. 32, Sched. C, s. 45 (10) - 1/01/2007

2007, c. 10, Sched. D, s. 2 (10, 11) - 4/06/2007

Ownership by vesting

89.7 (1) If a municipality becomes the owner of property by virtue of the registration of a notice of vesting under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, the Director or a provincial officer shall not, in respect of the period described in subsection (3), issue a direction or order under this Act to the municipality or a municipal representative with respect to the property unless the direction or order arises from,

- (a) the gross negligence or wilful misconduct of the municipality or municipal representative; or
- (b) circumstances prescribed by the regulations. 2006, c. 32, Sched. C, s. 45 (11).

Consent order

(2) Subsection (1) does not apply to a direction or order issued with the written consent of the municipality or municipal representative. 2001, c. 17, s. 5 (13).

Time period

(3) Subsection (1) only applies to the municipality or municipal representative in respect of the period that begins on the day the municipality became the owner of the property by virtue of the registration of the notice of vesting and ends on the earlier of the following days:

- 1. The fifth anniversary of the day the municipality became the owner of the property by virtue of the registration of the notice of vesting.
- 2. The day the municipality ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 3 (3).

Extension of period

(4) The Director may extend the period referred to in subsection (3), before or after it expires, on such terms and conditions as he or she considers appropriate, but the period may not be extended beyond the day the municipality ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 3 (3).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2002, c. 17, Sched. C, s. 19 (2) - 1/01/2003

2006, c. 19, Sched. K, s. 3 (3) - 22/06/2006; 2006, c. 32, Sched. C, s. 45 (11) - 1/01/2007

Exceptional circumstances, order to municipality

89.8 (1) Despite section 89.7, the Director may issue an order described in subsection (3) to a municipality if the municipality has become the owner of property by virtue of the registration of a notice of vesting under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006* and the Director has reasonable grounds to believe that, as a result of the presence or discharge of material on, in or under the property, any of the following circumstances exist:

1. There is danger to the health or safety of any person.
2. There is impairment or serious risk of impairment of any waters or any use of waters.
3. There is injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2001, c. 17, s. 5 (13); 2002, c. 17, Sched. C, s. 19 (3); 2006, c. 32, Sched. C, s. 45 (12).

Restriction if record of site condition

(2) If a record of site condition has been filed in the Registry under section 168.4 of the *Environmental Protection Act* with respect to the property, no order shall be issued under subsection (1) unless the Director has reasonable grounds to believe that, as a result of the presence of material that was on, in or under the property as of the certification date, there is danger to the health or safety of any person. 2001, c. 17, s. 5 (13).

Scope of order

(3) An order under subsection (1) may only require the municipality, within such times as are specified in the order, to comply with such directions specified in the order as are reasonably necessary to ensure that,

- (a) none of the circumstances listed in subsection (1) exist, if no record of site condition has been filed in the Registry under section 168.4 of the *Environmental Protection Act* with respect to the property; or
- (b) there is no danger to the health or safety of any person, if a record of site condition has been filed in the Registry under section 168.4 of the *Environmental Protection Act* with respect to the property. 2001, c. 17, s. 5 (13).

Same

(4) The directions referred to in subsection (3) may include the following:

1. A direction requiring the doing of anything mentioned in section 32.
2. A direction requiring the removal or disposal of the material or anything affected by the material.
3. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing.
4. If the presence or discharge of the material has damaged or endangered or is likely to damage or endanger existing water supplies, a direction to provide temporary or permanent alternate water supplies. 2001, c. 17, s. 5 (13); 2005, c. 12, s. 2 (16).

Information to be included in order

(5) An order under subsection (1) shall briefly describe the reasons for the order and the circumstances on which the reasons are based, including the circumstances listed in subsection (1) that exist. 2001, c. 17, s. 5 (13).

When notice of order filed in Registry

(6) The Director shall file notice of an order under subsection (1) in the Registry in accordance with the regulations referred to in subsection 168.8 (5) of the *Environmental Protection Act* if a record of site condition has been filed in the Registry under section 168.4 of that Act with respect to the property. 2001, c. 17, s. 5 (13).

Notice of compliance with order

(7) If notice of an order has been filed in the Registry under subsection (6) and the Director is satisfied that the order has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations referred to in subsection 168.8 (6) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13).

Filing of new record of site condition

(8) If notice of an order has been filed in the Registry under subsection (6) and the Director is satisfied that the order has been complied with but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (7) does not apply until a new record of site condition is filed in accordance with section 168.4 of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2002, c. 17, Sched. C, s. 19 (3) - 1/01/2003

2005, c. 12, s. 2 (16) - 13/06/2005

2006, c. 32, Sched. C, s. 45 (12) - 1/01/2007

Actions taken by secured creditors

89.9 (1) A secured creditor or a secured creditor representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) a person who manages or has control of a facility for the purpose of subsection 16.1 (1);
- (b) a person who manages or has control of a sewage works for the purpose of subsection 16.2 (1);
- (c) a person who manages or has control of a sewage works, water works or other facility for the purpose of section 32;
- (d) a person to whom a direction may be issued under section 61; or
- (e) an industrial or commercial enterprise for the purpose of subsection 91 (1) or (2). 2001, c. 17, s. 5 (13); 2007, c. 10, Sched. D, s. 2 (12, 13).

Actions

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to the secured property.
2. Any action taken for the purpose of preserving or protecting the secured property, including action to,
 - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
 - ii. secure the property by means of locks, gates, fences, security guards or other means,
 - iii. ensure that the property is insured under a contract of insurance, or
 - iv. pay taxes due or collect rents owing with respect to the property.
3. Any action taken on the secured property for the purpose of responding to,
 - i. any danger to the health or safety of any person that results from the presence or discharge of material on, in or under the property,
 - ii. any impairment or serious risk of impairment of any waters or any use of waters that results from the presence or discharge of material on, in or under the property, or
 - iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of material on, in or under the property.
4. Any other action prescribed by the regulations referred to in paragraph 4 of subsection 168.17 (2) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2007, c. 10, Sched. D, s. 2 (12, 13) - 4/06/2007

Secured creditor becoming owner by foreclosure

89.10 (1) If a secured creditor becomes the owner of the secured property by virtue of a foreclosure, the Director or a provincial officer shall not, in respect of the period described in subsection (3), issue any direction or order under any provision of this Act to the secured creditor or a secured creditor representative with respect to the property unless the direction or order arises from,

- (a) the gross negligence or wilful misconduct of the secured creditor or secured creditor representative; or
- (b) circumstances prescribed by the regulations. 2001, c. 17, s. 5 (13).

Consent order

(2) Subsection (1) does not apply to a direction or order issued with the written consent of the secured creditor or secured creditor representative. 2001, c. 17, s. 5 (13).

Time period

(3) Subsection (1) only applies to the secured creditor or secured creditor representative in respect of the period that begins on the day the secured creditor became the owner of the property by virtue of a foreclosure and ends on the earlier of the following days:

1. The fifth anniversary of the day the secured creditor became the owner of the property by virtue of a foreclosure.
2. The day the secured creditor ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 3 (4).

Extension of period

(4) The Director may extend the period referred to in subsection (3), before or after it expires, on such terms and conditions as he or she considers appropriate, but the period may not be extended beyond the day the secured creditor ceases to be the owner of the property. 2006, c. 19, Sched. K, s. 3 (4).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2006, c. 19, Sched. K, s. 3 (4) - 22/06/2006

Receivers and trustees in bankruptcy

89.11 (1) The Director or a provincial officer shall not issue any direction or order under any provision of this Act to a receiver, receiver representative, trustee in bankruptcy or trustee in bankruptcy representative with respect to the property held or administered by the receiver or trustee in bankruptcy unless the direction or order arises from,

- (a) the gross negligence or wilful misconduct of the receiver, receiver representative, trustee in bankruptcy or trustee in bankruptcy representative; or
- (b) circumstances prescribed by the regulations. 2001, c. 17, s. 5 (13).

Consent order

(2) Subsection (1) does not apply to a direction or order issued with the written consent of the receiver, receiver representative, trustee in bankruptcy or trustee in bankruptcy representative. 2001, c. 17, s. 5 (13).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

Exceptional circumstances, order to secured creditor

89.12 (1) Despite section 89.10, the Director may issue an order described in subsection (4) to a secured creditor who has become the owner of the secured property by virtue of a foreclosure if the Director has reasonable grounds to believe that, as a result of the presence or discharge of material on, in or under the property, any of the following circumstances exist:

1. There is danger to the health or safety of any person.
2. There is impairment or serious risk of impairment of any waters or any use of waters.
3. There is injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2001, c. 17, s. 5 (13).

Same

(2) Despite section 89.11, the Director may issue an order described in subsection (4) to a receiver or trustee in bankruptcy if the Director has reasonable grounds to believe that, as a result of the presence or discharge of material on, in or under the property held or administered by the receiver or trustee in bankruptcy, any of the circumstances listed in subsection (1) exist. 2001, c. 17, s. 5 (13).

Restriction if record of site condition

(3) If a record of site condition has been filed in the Registry under section 168.4 of the *Environmental Protection Act* with respect to the property, no order shall be issued under subsection (1) or (2) unless the Director has reasonable grounds to believe that, as a result of the presence of material that was on, in or under the property as of the certification date, there is danger to the health or safety of any person. 2001, c. 17, s. 5 (13).

Scope of order

(4) An order under subsection (1) or (2) may only require the secured creditor, receiver or trustee in bankruptcy, within such times as are specified in the order, to comply with such directions specified in the order as are reasonably necessary to ensure that,

- (a) none of the circumstances listed in subsection (1) exist, if no record of site condition has been filed in the Registry under section 168.4 of the *Environmental Protection Act* with respect to the property; or
- (b) there is no danger to the health or safety of any person, if a record of site condition has been filed in the Registry under section 168.4 of the *Environmental Protection Act* with respect to the property. 2001, c. 17, s. 5 (13).

Same

(5) The directions referred to in subsection (4) may include the following:

1. A direction requiring the doing of anything mentioned in section 32.
2. A direction requiring the removal or disposal of the material or anything affected by the material.
3. A direction to secure, by means of locks, gates, fences, security guards or other means, any land, place or thing.
4. If the presence or discharge of the material has damaged or endangered or is likely to damage or endanger existing water supplies, a direction to provide temporary or permanent alternate water supplies. 2001, c. 17, s. 5 (13); 2005, c. 12, s. 2 (17).

Information to be included in order

(6) An order under subsection (1) or (2) shall briefly describe the reasons for the order and the circumstances on which the reasons are based, including the circumstances listed in subsection (1) that exist. 2001, c. 17, s. 5 (13).

Exception

(7) A receiver or trustee in bankruptcy is not required to comply with an order under subsection (2) if the order did not arise from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy, or of a receiver representative or trustee in bankruptcy representative, and,

- (a) not later than 10 days after being served with the order, or within such longer period as may be specified by the Director in the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property to which the order relates; or
- (b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 5 (13).

Notice under subs. (7)

(8) Notice under clause (7) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 168.20 (8) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13).

When notice of order filed in Registry

(9) The Director shall file notice of an order under subsection (1) or (2) in the Registry in accordance with the regulations referred to in subsection 168.8 (5) of the *Environmental Protection Act* if a record of site condition has been filed in the Registry under section 168.4 of that Act with respect to the property. 2001, c. 17, s. 5 (13).

Notice of compliance with order

(10) If notice of an order has been filed in the Registry under subsection (9) and the Director is satisfied that the order has been complied with, the Director shall file notice of the compliance in the Registry in accordance with the regulations referred to in subsection 168.8 (6) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13).

Filing of new record of site condition

(11) If notice of an order has been filed in the Registry under subsection (9) and the Director is satisfied that the order has been complied with but the Director is of the opinion that a certification contained in the record of site condition filed in the Registry does not accurately reflect the current state of the property, subsection (10) does not apply until a new record of site condition is filed in accordance with section 168.4 of the *Environmental Protection Act*. 2001, c. 17, s. 5 (13).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2005, c. 12, s. 2 (17) - 13/06/2005

Obligations of fiduciaries

89.13 If the Minister, the Director or a provincial officer issues a direction, notice or order under any provision of this Act to a fiduciary or fiduciary representative with respect to fiduciary property, the obligation of the fiduciary or fiduciary representative to incur costs to comply with the direction, notice or order is limited to the value of the assets they hold or administer on the date they are served with the direction, notice or order, less their reasonable costs of holding or administering the assets, unless the direction, notice or order arose from the gross negligence or wilful misconduct of the fiduciary or fiduciary representative. 2001, c. 17, s. 5 (13).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

Investigations of property, etc.

89.14 A person who conducts, completes or confirms an investigation in relation to property or a person who takes any action to reduce the concentration of contaminants on, in or under a property is not, for that reason alone,

- (a) a person who manages or has control of a facility for the purpose of subsection 16.1 (1);
- (b) a person who manages or has control of a sewage works for the purpose of subsection 16.2 (1);
- (c) a person who manages or has control of a sewage works, water works or other facility for the purpose of section 32; or
- (d) a person to whom a direction may be issued under section 61. 2001, c. 17, s. 5 (13); 2007, c. 7, Sched. 30, s. 7; 2007, c. 10, Sched. D, s. 2 (14, 15).

Section Amendments with date in force (d/m/y)

2001, c. 17, s. 5 (13) - 1/12/2002

2007, c. 7, Sched. 30, s. 7 - 17/05/2007; 2007, c. 10, Sched. D, s. 2 (14, 15) - 4/06/2007

MISCELLANEOUS

Service of offence notice, etc., offences re: vehicles

90 (1) In this section,

“commercial motor vehicle” and “motor vehicle” have the same meanings as in the *Highway Traffic Act*; (“véhicule utilitaire”, “véhicule automobile”)

“offence notice or summons” means,

- (a) an offence notice or summons under Part I of the *Provincial Offences Act*, or
- (b) a summons under Part III of the *Provincial Offences Act*. (“avis d’infraction ou assignation”) R.S.O. 1990, c. O.40, s. 90 (1); 1998, c. 35, s. 64 (1).

Service of offence notice or summons

(2) Delivery of an offence notice or summons to the operator of a commercial motor vehicle in respect of an offence under this Act related to the use of the vehicle shall be deemed to be personal service of the offence notice or summons on the owner or lessee of the vehicle who is named in the offence notice or summons.

Employer

(3) Delivery of an offence notice or summons to the operator of a motor vehicle in respect of an offence under this Act related to the use of the vehicle in the course of the operator’s employment shall be deemed to be personal service of the offence notice or summons on the employer of the operator of the vehicle. R.S.O. 1990, c. O.40, s. 90 (2, 3).

(4) REPEALED: 1998, c. 35, s. 64 (2).

Exception

(5) Subsection (2) does not apply if, at the time of the offence, the vehicle was in the possession of the operator without the consent of the owner or lessee of the vehicle, as the case may be, but the burden of proof of that shall be on the owner or lessee of the vehicle.

Permit holder deemed owner

(6) For the purposes of this section, the holder of a permit under Part II of the *Highway Traffic Act* shall be deemed to be the owner of the vehicle referred to in the permit if a number plate under that Part bearing a number that corresponds to the permit was displayed on the vehicle at the time the offence was committed.

Application of subs. (6)

(7) Subsection (6) does not apply if the number plate was displayed on the vehicle without the consent of the holder of the permit, but the burden of proof of that shall be on the holder of the permit. R.S.O. 1990, c. O.40, s. 90 (5-7).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 64 (1, 2) - 1/02/1999

Service of offence notice, etc., corporations, etc.

Service on municipal corporations

90.1 (1) Service of an offence notice or summons on a municipal corporation may be effected by delivering it personally to the mayor, warden, reeve or other chief officer of the municipal corporation or to the clerk of the municipal corporation.

Service on other corporations

(2) Service of an offence notice or summons on a corporation other than a municipal corporation may be effected by delivering it personally to the manager, secretary or other officer of the corporation or to a person apparently in charge of a branch office of the corporation.

Service on partnership

(3) Service of an offence notice or summons on a partnership may be effected by delivering it personally to a partner or to a person apparently in charge of an office of the partnership.

Service on a sole proprietorship

(4) Service of an offence notice or summons on a sole proprietorship may be effected by delivering it personally to the sole proprietor or to a person apparently in charge of an office of the sole proprietorship.

Substituted service

(5) On application without notice, a justice, on being satisfied that service cannot be made effectively in accordance with subsections (1) to (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the municipal corporation, other corporation, partnership or sole proprietorship. 1998, c. 35, s. 65.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 65 - 1/02/1999

Sewage disposal, Director's order

91 (1) If an industrial or commercial enterprise makes arrangements for the collection, transmission, treatment or disposal of sewage that are considered unsatisfactory by a Director, the Director may require such industrial or commercial enterprise,

- (a) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;
- (b) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and
- (c) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by order of the Director.

Idem

(2) If an industrial or commercial enterprise makes no arrangements for the collection, transmission, treatment or disposal of sewage, a Director may require such industrial or commercial enterprise,

- (a) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;
- (b) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and
- (c) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by order of the Director. R.S.O. 1990, c. O.40, s. 91.

Discharge of sewage into sewage works, Director's order

92 If, in the opinion of a Director, a discharge of sewage into a sewage works may interfere with the proper operation of a sewage works, the Director may by order require the person that discharges or causes or permits the discharge of sewage,

- (a) to stop or regulate such discharge; or
- (b) to take action in accordance with and within the time required by the order. R.S.O. 1990, c. O.40, s. 92.

Protection from personal liability

93 (1) No action or other proceeding for damages or otherwise shall be instituted against any of the following persons for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of such a duty or authority:

1. REPEALED: 2009, c. 33, Sched. 2, s. 55 (9).
2. An employee in the Ministry or of the Agency.
3. A public servant employed under Part III of the *Public Service of Ontario Act, 2006* who is acting under the direction of a person described in paragraph 2. 2006, c. 35, Sched. C, s. 105 (3); 2009, c. 33, Sched. 2, s. 55 (9, 10).

Exception

(1.1) Subsection (1) does not apply in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person described in subsection (1) in any Act or in a regulation made under this or any other Act. 2006, c. 35, Sched. C, s. 105 (3).

Crown not relieved of liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1990, c. O.40, s. 93 (2).

Section Amendments with date in force (d/m/y)

1993, c. 23, s. 73 (49) - 15/11/1993

2000, c. 26, Sched. F, s. 13 (11) - 6/12/2000

2006, c. 35, Sched. C, s. 105 (3) - 20/08/2007

2009, c. 33, Sched. 2, s. 55 (9, 10) - 15/12/2009

Limitations

94 (1) Proceedings for an offence under this Act or the regulations shall not be commenced later than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 5. R.S.O. 1990, c. O.40, s. 94 (1); 2001, c. 9, Sched. G, s. 6 (38).

Idem

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the 28th day of June, 1990. R.S.O. 1990, c. O.40, s. 94 (2).

Section Amendments with date in force (d/m/y)

1992, c. 23, s. 39 (6) - See 1997, c. 24, s. 224 (19) - 17/06/1998

2001, c. 9, Sched. G, s. 6 (38) - 29/06/2001

Power to restrain

By action

95 (1) Where any provision of this Act or the regulations or any direction, order, approval, notice or permit, made, granted, given, served or issued by a Director under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, such contravention may be restrained by action at the instance of the Minister. R.S.O. 1990, c. O.40, s. 95 (1); 2001, c. 9, Sched. G, s. 6 (39).

By order upon conviction

(2) Upon its own initiative or on motion by counsel for the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other remedy and to any other penalty imposed by law, may make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. R.S.O. 1990, c. O.40, s. 95 (2).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (39) - 29/06/2001

Fees

96 The Minister may establish and require the payment of fees in respect of any matter under this Act, specify to whom the fees are paid, provide for the retention of all or part of the fees by the person to whom they are paid and provide for the refund of fees. 2001, c. 9, Sched. G, s. 6 (40).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (40) - 29/06/2001

97 REPEALED: 2001, c. 9, Sched. G, s. 6 (40).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (40) - 29/06/2001

Obstruction

98 (1) No person shall hinder or obstruct any provincial officer or any employee in or agent of the Ministry or the Agency in the performance of his or her duties under this Act. 1998, c. 35, s. 66; 2006, c. 35, Sched. C, s. 105 (4).

False information

(2) No person shall orally, in writing or electronically, give or submit false or misleading information in any statement, document or data, to any provincial officer, the Minister, the Ministry or the Agency, any employee in or agent of the Ministry or the Agency, or any person involved in carrying out a program of the Ministry or the Agency in respect of any matter related to this Act or the regulations. 1998, c. 35, s. 66; 2001, c. 9, Sched. G, s. 6 (41); 2006, c. 35, Sched. C, s. 105 (5).

Same

(3) No person shall include false or misleading information in any document or data required to be created, stored or submitted under this Act. 1998, c. 35, s. 66.

Refusal to furnish information

(4) No person shall refuse to furnish any provincial officer, the Minister, the Ministry, the Agency or any employee in or agent of the Ministry or the Agency with information required for the purposes of this Act and the regulations. 1998, c. 35, s. 66; 2006, c. 35, Sched. C, s. 105 (6).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 66 - 1/02/1999

2001, c. 9, Sched. G, s. 6 (41) - 29/06/2001

2006, c. 35, Sched. C, s. 105 (4-6) - 20/08/2007

Recovery of money owing to Treasurer

99 Any amount due and payable by a person to the Minister of Finance in respect of any matter under this Act, together with such interest and expenses of debt service as may be determined by the Minister of Finance with respect to such amount, may be recovered by the Minister of the Environment with costs in a court of competent jurisdiction as a debt due to the Crown by the person. R.S.O. 1990, c. O.40, s. 99; 2001, c. 9, Sched. G, s. 6 (42).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (42) - 29/06/2001

Review of action by Director

100 (1) REPEALED: 2005, c. 12, s. 2 (18).

(1.1) REPEALED: 2005, c. 12, s. 2 (19).

(2) REPEALED: 2005, c. 12, s. 2 (20).

When approval, etc., refused

(3) When a Director,

- (a) refuses to issue, grant or renew, or cancels, revokes or suspends, a licence, permit or approval;
- (b) imposes terms and conditions in issuing a licence or permit or in granting an approval;
- (c) alters the terms and conditions of a permit or approval after it is issued or granted;
- (d) imposes new terms and conditions on a permit or approval after it is issued or granted; or
- (e) gives or makes any direction, report or order, except an order under section 74,

the Director shall serve written notice of the refusal, cancellation, revocation or suspension referred to in clause (a), the terms and conditions imposed or altered as referred to in clause (b), (c) or (d), or a written copy of the direction, report or order referred to in clause (e), and written reasons therefor, upon the applicant or the person to whom the licence, permit, approval, direction, order or report is issued or granted. R.S.O. 1990, c. O.40, s. 100 (3); 2007, c. 12, s. 1 (26-29).

Hearing may be required

(4) The applicant or person may, by written notice served upon the Director and the Tribunal within fifteen days after the service of the notice referred to in subsection (3), require a hearing by the Tribunal. R.S.O. 1990, c. O.40, s. 100 (4); 2000, c. 26, Sched. F, s. 13 (13).

Exception

(5) Subsections (3) and (4) do not apply with respect to a decision of the Tribunal that is implemented by a Director in accordance with subsection 7 (4). R.S.O. 1990, c. O.40, s. 100 (5); 2000, c. 26, Sched. F, s. 13 (13).

Extension of time for requiring hearing

(6) The Tribunal shall extend the time in which a person may give a notice under subsection (4) requiring a hearing on a notice, direction, report, order or other decision where, in the opinion of the Tribunal, it is just to do so because service of the notice referred to in subsection (3) did not give the person notice of the decision. R.S.O. 1990, c. O.40, s. 100 (6); 2000, c. 26, Sched. F, s. 13 (13).

Notice to municipalities

(7) When the Director makes a direction, report, order or other decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the direction, report, order or other decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the direction, report, order or other decision requires something to be done, permits something to be done or prohibits something from being done. 2007, c. 12, s. 1 (30).

(8) REPEALED: 2005, c. 12, s. 2 (21).

Parties to hearing

(9) The applicant or person requiring the hearing, the Director referred to in subsection (3) and any other persons specified by the Tribunal are parties to the hearing. R.S.O. 1990, c. O.40, s. 100 (9); 2000, c. 26, Sched. F, s. 13 (13).

Powers of Tribunal

(10) Subject to sections 86, 101 and 102.1, a hearing by the Tribunal under this section shall be a new hearing and the Tribunal may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing and may by order direct the Director to take such action as the Tribunal considers the Director should take in accordance with this Act and the regulations, and, for such purposes, the Tribunal may substitute its opinion for that of the Director. 2005, c. 12, s. 2 (22).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 67 - 1/02/1999

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2005, c. 12, s. 2 (18-22) - 13/06/2005

2007, c. 12, s. 1 (26, 28) - 4/06/2007; 2007, c. 12, s. 1 (27, 29, 30) - 1/01/2015

Contents of notice requiring hearing

101 (1) An applicant for a hearing by the Tribunal under section 100 shall state in the notice requiring the hearing,

- (a) the portions of the order, direction, report, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and
- (b) the grounds on which the applicant for the hearing intends to rely at the hearing. R.S.O. 1990, c. O.40, s. 101 (1); 2000, c. 26, Sched. F, s. 13 (13); 2005, c. 12, s. 2 (23); 2007, c. 12, s. 1 (31).

Effect of contents of notice

(2) Except with leave of the Tribunal, at a hearing by the Tribunal an applicant is not entitled to appeal a portion of the order, direction, report, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing. R.S.O. 1990, c. O.40, s. 101 (2); 2000, c. 26, Sched. F, s. 13 (13); 2007, c. 12, s. 1 (32).

Leave

(3) The Tribunal may grant the leave referred to in subsection (2) where the Tribunal is of the opinion that to do so is proper in the circumstances, and the Tribunal may give such directions as it considers proper consequent upon the granting of the leave. R.S.O. 1990, c. O.40, s. 101 (3); 2000, c. 26, Sched. F, s. 13 (13).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2005, c. 12, s. 2 (23) - 13/06/2005

2007, c. 12, s. 1 (31, 32) - 1/01/2015

Stay of action under review

102 (1) The commencement of a proceeding before the Tribunal under section 100 does not stay the operation of a direction, order, report or decision made, issued or given under this Act, other than,

- (a) an order to pay the costs of work made under section 84; or
- (b) an order to pay an environmental penalty. 2005, c. 12, s. 2 (24); 2007, c. 12, s. 1 (33).

Tribunal may grant stay

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

- (a) a direction, order or report to monitor, record and report; or
- (b) an order issued under section 89.3, 89.8 or 89.12. 2005, c. 12, s. 2 (25); 2007, c. 12, s. 1 (34).

When stay may not be granted

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

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of any waters or any use of waters; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. R.S.O. 1990, c. O.40, s. 102 (3); 2000, c. 26, Sched. F, s. 13 (13); 2007, c. 12, s. 1 (35).

Right to apply to remove stay: new circumstances

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Tribunal may grant the application. R.S.O. 1990, c. O.40, s. 102 (4); 2000, c. 26, Sched. F, s. 13 (13).

Right to apply to remove stay: new party

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party, apply for the removal of the stay, and the Tribunal may grant the application. R.S.O. 1990, c. O.40, s. 102 (5); 2000, c. 26, Sched. F, s. 13 (13); 2009, c. 19, s. 70 (8).

Removal of stay by Tribunal

(6) The Tribunal, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c). R.S.O. 1990, c. O.40, s. 102 (6); 2000, c. 26, Sched. F, s. 13 (13).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 13 (13) - 6/12/2000

2001, c. 17, s. 5 (14) - 1/12/2002

2005, c. 12, s. 2 (24, 25) - 13/06/2005

2007, c. 12, s. 1 (33-35) - 1/01/2015

2009, c. 19, s. 70 (8) - 1/01/2010

Amount of environmental penalties

102.1 (1) For greater certainty, if a hearing by the Tribunal is required under section 100 in respect of an order to pay an environmental penalty, the regulations made under clause 106.1 (15) (d) governing the determination of the amounts of environmental penalties apply to the Tribunal. 2005, c. 12, s. 2 (26).

Same

(2) Subject to subsection (1), if a hearing by the Tribunal is required under section 100 in respect of an order to pay an environmental penalty, the Tribunal shall not substitute its opinion for that of the Director with respect to the amount of the penalty unless the Tribunal considers the amount to be unreasonable. 2005, c. 12, s. 2 (26).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (26) - 1/08/2007

Onus for certain proceedings that relate to discharges

102.2 (1) This section applies to a hearing by the Tribunal under section 100 if,

- (a) the hearing was required by a regulated person;
- (b) the order that is the subject of the hearing is,
 - (i) an order made under subsection 106.1 (1), or
 - (ii) an order made under section 16, an order made under section 16.3 that amends an order made under section 16, or an order made under section 16.4 that confirms or alters an order made under section 16, unless the contravention in respect of which the order is made is prescribed by the regulations made under section 106.1 as a contravention in respect of which an order may not be issued under subsection 106.1 (1); and
- (c) the order that is the subject of the hearing relates to a contravention described in clause 106.1 (1) (a). 2005, c. 12, s. 2 (26).

Contraventions of s. 30 (1)

(2) If this section applies to a hearing and the order that is the subject of the hearing relates to a contravention of subsection 30 (1), the person who required the hearing has the onus of proving that the material that was discharged into the natural environment is not material that may impair the quality of the water of any waters in the manner described in the order. 2005, c. 12, s. 2 (26).

Contraventions of other discharge provisions

(3) If this section applies to a hearing and the order that is the subject of the hearing relates to a discharge into the natural environment in contravention of a provision referred to in subclause 106.1 (1) (a) (ii), (iii) or (iv), the person who required the hearing has the onus of proving that the person did not contravene the provision. 2005, c. 12, s. 2 (26).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (26) - 1/08/2007

Appeals from Tribunal

102.3 (1) Any party to a hearing before the Tribunal under section 100 may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. 2005, c. 12, s. 2 (27).

Appeal to Minister

(2) A party to a hearing before the Tribunal under section 100 may, within 30 days after receipt of the decision of the Tribunal or within 30 days after final disposition of an appeal, if any, under subsection (1), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as the Minister considers in the public interest. 2005, c. 12, s. 2 (27).

Decision of Tribunal not automatically stayed on appeal

(3) An appeal of a decision of the Tribunal to the Divisional Court or to the Minister does not stay the operation of the decision, unless the Tribunal orders otherwise. 2005, c. 12, s. 2 (27).

Divisional Court or Minister may grant or set aside stay

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

(a) stay the operation of the decision; or

(b) set aside a stay ordered by the Tribunal under subsection (3). 2005, c. 12, s. 2 (27).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (27) - 13/06/2005

Disclosure of directions, orders, notices and decisions

103 (1) A person who has authority under this Act to make a direction, order, notice or decision affecting land also has authority to make an order requiring any person with an interest in the land, before dealing with the land in any way, to give a copy of the direction, order, notice or decision affecting the land to every person who will acquire an interest in the land as a result of the dealing. 2001, c. 17, s. 5 (15).

Registration of requirement

(2) A certificate setting out a requirement imposed under subsection (1) may be registered in the proper land registry office on the title of the land to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection (1) and is accompanied by a registrable description of the land. 2001, c. 17, s. 5 (15).

Same

(3) A requirement imposed under subsection (1) that is set out in a certificate registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the land. 2001, c. 17, s. 5 (15).

Dealings voidable

(4) A dealing with land by a person who is subject to a requirement imposed under subsection (1) or (3) is voidable at the instance of a person who was not given the copy of the direction, order, notice or decision in accordance with the requirement. 2001, c. 17, s. 5 (15).

Registration of withdrawal of requirement

(5) A certificate of withdrawal of a requirement imposed under subsection (1) or (3) may be registered in the proper land registry office on the title of the land to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection (1) and is accompanied by a registrable description of the land. 2001, c. 17, s. 5 (15).

Same

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a requirement in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the requirement and the certificate of withdrawal of the requirement. 2001, c. 17, s. 5 (15).

Same

(7) Registration of a certificate of withdrawal of a requirement in accordance with subsection (5) has the effect of revoking the requirement. 2001, c. 17, s. 5 (15).

Transition

(8) This section, as it read immediately before the day subsection 5 (15) of the *Brownfields Statute Law Amendment Act, 2001* came into force, continues to apply in respect of prohibitions issued under this section before that day. 2001, c. 17, s. 5 (15).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 68 (1, 2) - 1/02/1999

2001, c. 17, s. 5 (15) - 1/10/2004

Orders: ancillary authority

104 (1) In this section,

“make” includes issue or give; (“prendre”)

“order” includes direction, requirement or report. (“arrêté”) R.S.O. 1990, c. O.40, s. 104 (1); 2007, c. 12, s. 1 (36).

Intermediate actions, etc.

(2) The authority to make an order under this Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order. R.S.O. 1990, c. O.40, s. 104 (2).

Access to land

(3) A person who has authority under this Act to make an order requiring that a thing be done on land also has authority to make an order requiring any person who owns, occupies or has the charge, management or control of the land to permit access to the land for the purpose of doing the thing. R.S.O. 1990, c. O.40, s. 104 (3).

Applies to all orders

(4) This section applies with respect to every order made under this Act whether or not the order was made before the 9th day of November, 1983. R.S.O. 1990, c. O.40, s. 104 (4).

Section Amendments with date in force (d/m/y)

2007, c. 12, s. 1 (36) - 1/01/2015

Administrative changes to permits, etc.

104.1 The Director may revoke or cancel a permit, alter the terms and conditions of a permit or approval or make an order amending or revoking a direction, order, report, notice or approval issued by the Director under this Act if the Director is satisfied that the revocation, cancellation, alteration or amendment is in the public interest and is desirable for administrative reasons to,

- (a) reflect changes that have occurred with respect to the identity or description of any person or place; or
- (b) eliminate provisions that are spent or obsolete. 2001, c. 9, Sched. G, s. 6 (43).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (43) - 29/06/2001

Presiding judge

105 The Crown, by notice to the clerk of the Ontario Court of Justice, may require that a provincial judge preside over a proceeding in respect of an offence under this Act. R.S.O. 1990, c. O.40, s. 105; 2001, c. 9, Sched. G, s. 6 (44); 2006, c. 21, Sched. C, s. 125 (2).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (44) - 29/06/2001

2006, c. 21, Sched. C, s. 125 (2) - 1/05/2007

Service

106 (1) Any document given or served under this Act or the regulations is sufficiently given or served if it is,

- (a) delivered personally;

- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with the regulations respecting service. R.S.O. 1990, c. O.40, s. 106 (1); 2001, c. 9, Sched. G, s. 6 (45).

When service deemed made

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the document until a later date. R.S.O. 1990, c. O.40, s. 106 (2).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (45) - 29/06/2001

Environmental penalties

106.1 (1) Subject to the regulations, the Director may issue an order requiring a regulated person to pay a penalty if,

- (a) the regulated person contravenes,
 - (i) subsection 30 (1),
 - (ii) a provision of the regulations that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment,
 - (iii) a provision of an order, notice, direction, requirement or report under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment, or
 - (iv) a provision of a licence, permit or approval under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment; or
- (b) the regulated person contravenes a provision, other than a provision referred to in clause (a), of,
 - (i) this Act or the regulations,
 - (ii) an order, notice, direction, requirement or report under this Act, other than an order under section 84 or an order of a court,
 - (iii) a licence, permit or approval under this Act, or
 - (iv) an agreement under subsection (9). 2005, c. 12, s. 2 (28).

Exceptions

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

- (a) a contravention of subsection 30 (1), if,
 - (i) neither this Act nor the *Environmental Protection Act* requires the regulated person to notify the Ministry of the discharge to which the contravention relates, or
 - (ii) the discharge to which the contravention relates was authorized under this Act or the *Environmental Protection Act*; or
- (b) a contravention of section 98. 2005, c. 12, s. 2 (28).

Contents of order

- (3) The order shall be served on the person who is required to pay the penalty and shall,
 - (a) contain a description of the contravention to which the order relates, including, where appropriate, the date and location of the contravention;
 - (b) in the case of a contravention of subsection 30 (1), contain a description of how the contravention may impair the quality of the water of any waters;
 - (c) specify the amount of the penalty;
 - (d) give particulars respecting the time for paying the penalty and the manner of payment; and

- (e) provide information to the person as to the person's rights under section 100. 2005, c. 12, s. 2 (28); 2007, c. 10, Sched. D, s. 2 (16).

Amount

- (4) The amount of the penalty shall be determined in accordance with the regulations. 2005, c. 12, s. 2 (28).

Maximum penalty

- (5) The amount of the penalty shall not exceed \$100,000 for each day or part of a day on which the contravention occurred or continued. 2005, c. 12, s. 2 (28).

Absolute liability

- (6) A requirement that a person pay an environmental penalty applies even if,
- (a) the person took all reasonable steps to prevent the contravention; or
 - (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent. 2005, c. 12, s. 2 (28).

Same

- (7) For greater certainty, nothing in subsection (6) affects the prosecution of an offence. 2005, c. 12, s. 2 (28).

Limitation

- (8) An order requiring payment of an environmental penalty shall be served not later than the first anniversary of the later of the following dates:

1. The date the contravention occurred.
2. The date on which the evidence of the contravention first came to the attention of the Director or a provincial officer. 2005, c. 12, s. 2 (28).

Agreements

- (9) The Director and a person against whom an order may be or has been made under subsection (1) may enter into an agreement that,

- (a) identifies the contravention in respect of which the order may be or has been made;
- (b) requires the person against whom the order may be or has been made to take steps specified in the agreement within the time specified in the agreement; and
- (c) provides that the obligation to pay the penalty may be cancelled in accordance with the regulations or the amount of the penalty may be reduced in accordance with the regulations. 2005, c. 12, s. 2 (28).

Publication of agreements

- (10) The Ministry shall publish every agreement entered into under subsection (9) in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*. 2005, c. 12, s. 2 (28).

Penalty does not prevent prosecution

- (11) A person may be charged, prosecuted and convicted of an offence under this Act in respect of a contravention referred to in subsection (1) even if an environmental penalty has been imposed on or paid by the person or another person in respect of the contravention. 2005, c. 12, s. 2 (28).

No admission

- (12) If a person pays a penalty imposed under subsection (1) in respect of a contravention or enters into an agreement under subsection (9) in respect of a contravention, the payment or entering into of the agreement is not, for the purposes of any prosecution in respect of the contravention, an admission that the person committed the contravention. 2005, c. 12, s. 2 (28).

Failure to pay when required

- (13) If a person who is required to pay an environmental penalty fails to comply with the requirement,
- (a) the order or decision that requires the payment may be filed with a local registrar of the Superior Court of Justice and may be enforced as if it were an order of the court;
 - (b) the Director may by order suspend any licence, permit or approval that has been issued to the person under this Act until the environmental penalty is paid; and

- (c) the Director may refuse to issue any licence, permit or approval to the person under this Act until the environmental penalty is paid. 2005, c. 12, s. 2 (28).

Same

(14) Section 129 of the *Courts of Justice Act* applies in respect of an order or decision filed with the Superior Court of Justice under subsection (13) and, for that purpose, the date on which the order or decision is filed under subsection (13) shall be deemed to be the date of the order that is referred to in section 129 of the *Courts of Justice Act*. 2005, c. 12, s. 2 (28).

Regulations

- (15) The Lieutenant Governor in Council may make regulations,
- (a) specifying the form and content of orders under subsection (1);
 - (b) specifying types of contraventions or circumstances in respect of which an order may not be issued under subsection (1);
 - (c) requiring and governing public consultation before an agreement is entered into under subsection (9) and, subject to that subsection and to any regulations made under subclause (d) (iv), governing the contents of agreements under that subsection;
 - (d) governing the determination of the amounts of environmental penalties, including,
 - (i) prescribing criteria to be considered in the exercise of any discretion,
 - (ii) providing that the total amount of the penalty for a contravention that occurs or continues for more than one day not exceed a maximum prescribed by the regulations,
 - (iii) providing for different amounts depending on when an environmental penalty is paid,
 - (iv) with respect to agreements under subsection (9), governing the cancellation of the obligation to pay an environmental penalty or the reduction of the amount of an environmental penalty;
 - (e) prescribing circumstances in which a person is not required to pay an environmental penalty;
 - (f) prescribing procedures related to environmental penalties;
 - (g) respecting any other matter necessary for the administration of a system of penalties provided for by this section. 2005, c. 12, s. 2 (28).

General or particular

(16) A regulation under subsection (15) may be general or particular in its application. 2005, c. 12, s. 2 (28).

Regulations governing determination of amounts

(17) The regulations made under clause (15) (d) must, with respect to a contravention referred to in clause (1) (a), provide for the following matters:

1. The person who is required to pay the penalty must be entitled,
 - i. to seek and obtain a reduction in the amount of the penalty if the person took steps prescribed by the regulations to prevent the contravention in respect of which the penalty is imposed, and
 - ii. to seek and obtain a reduction in the amount of the penalty if the person took steps prescribed by the regulations to mitigate the effects of the contravention in respect of which the penalty is imposed.
2. The determination of the amount of the penalty must take into account factors prescribed by the regulations that relate to the seriousness of the contravention in respect of which the penalty is imposed.
3. If the Director is of the opinion that, as a result of the contravention in respect of which the penalty is imposed, a monetary benefit prescribed by the regulations was acquired by the person who is required to pay the penalty, the amount of the benefit must be considered in determining the amount of the penalty. 2005, c. 12, s. 2 (28).

Environmental management systems

(18) The regulations made under clause (15) (d) must provide for a reduction in the amount of an environmental penalty if, at the time the contravention to which the penalty relates occurred, the person who is required to pay the penalty had in place an environmental management system specified by the regulations. 2005, c. 12, s. 2 (28).

Annual report

(19) The Minister shall, not later than March 31 in each year, publish a report that sets out the following information for each contravention in respect of which an order was made under this section during the previous year:

1. The name of the person against whom the order was made.
2. The amount of the penalty.
3. A description of the contravention.
4. An indication of whether an agreement was entered into under subsection (9) in respect of the order and, if an agreement was entered into, the effect of the agreement on the obligation to pay the penalty or on the amount of the penalty. 2005, c. 12, s. 2 (28).

Five-year review

(20) At least once every five years, the Minister shall cause a report to be prepared and published on the operation of this section, including the effect of this section on prosecutions under this Act and including recommendations on the contraventions to which and circumstances in which orders should be issued under subsection (1). 2005, c. 12, s. 2 (28).

Application

(21) This section does not apply to contraventions that occurred before this section came into force. 2005, c. 12, s. 2 (28).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 69 - See 2005, c. 12, s. 2 (28) - 1/08/2007

2000, c. 22, s. 2 (3, 4) - See 2005, c. 12, s. 2 (28) - 1/08/2007; 2000, c. 26, Sched. F, s. 13 (12, 13) - 6/12/2000

2001, c. 9, Sched. G, s. 6 (46, 47) - See 2005, c. 12, s. 2 (28) - 1/08/2007

2005, c. 12, s. 2 (28) - 1/08/2007

2007, c. 10, Sched. D, s. 2 (16) - 1/08/2007

Special purpose account

106.2 Environmental penalties paid under this Act shall be deposited in the account referred to in section 182.2 of the *Environmental Protection Act*. 2005, c. 12, s. 2 (29).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (29) - 1/08/2007

Offences

Contravention of Act or regulations

107 (1) Every person that contravenes this Act or the regulations is guilty of an offence. R.S.O. 1990, c. O.40, s. 107 (1).

Offence re order, notice, direction

(2) Every person that fails to comply with an order, notice, direction, requirement or report made under this Act, other than an order under section 84 or 106.1, is guilty of an offence. R.S.O. 1990, c. O.40, s. 107 (2); 2005, c. 12, s. 2 (30).

Offence re licence, permit, approval

(3) Every person that contravenes a term or condition of a licence, permit or approval made under this Act is guilty of an offence. R.S.O. 1990, c. O.40, s. 107 (3); 2005, c. 12, s. 2 (31).

Offence re fees

(4) Every person who fails to pay a fee that the person is required to pay under section 96 is guilty of an offence. 2001, c. 9, Sched. G, s. 6 (48).

Exception when order, etc., complied with

(5) Despite subsections (1), (2) and (3), a person to whom a direction, order, notice or report under this Act is directed who complies fully with the direction, order, notice or report shall not be prosecuted for or convicted of an offence in respect of the matter or matters dealt with in the direction, order, notice or report that occurs during the period within which the direction, order, notice or report is applicable. 2005, c. 12, s. 2 (32).

Same

(6) The protection from prosecution under subsection (5) does not include protection from the imposition of an environmental penalty. 2005, c. 12, s. 2 (32).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (48) - 29/06/2001

2005, c. 12, s. 2 (30-32) - 13/06/2005

Penalties, general

108 (1) Every individual convicted of an offence under this Act, other than an offence described in subsection 109 (1), is liable,

- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000; and
- (b) on each subsequent conviction,
 - (i) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$100,000,
 - (ii) to imprisonment for a term of not more than one year, or
 - (iii) to both such fine and imprisonment. 2005, c. 12, s. 2 (33).

Same: corporations

(2) Every corporation convicted of an offence under this Act, other than an offence described in subsection 109 (1), is liable,

- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$250,000; and
- (b) on each subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$500,000. 2005, c. 12, s. 2 (33).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 71 - 1/02/1999

2005, c. 12, s. 2 (33) - 13/06/2005

Penalties, more serious offences

109 (1) Subsections (2) and (3) apply to the following offences:

1. An offence under subsection 30 (1).
2. An offence under subsection 107 (1) of,
 - i. contravening subsection 30 (1) or (2),
 - ii. contravening section 98, or
 - iii. contravening a provision of the regulations that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.
3. An offence under subsection 107 (2) of failing to comply with an order, direction, requirement or report made under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.
4. An offence under subsection 107 (3) of contravening a term or condition of a licence, permit or approval made under this Act that establishes or has the effect of establishing a numerical limit, including a limit of zero, on the amount, concentration or level of anything that may be discharged to the natural environment.
5. An offence under subsection 116 (2) that relates to a contravention or failure to comply referred to in paragraph 1, 2, 3 or 4. 2005, c. 12, s. 2 (34).

Corporations

(2) Every corporation convicted of an offence described in subsection (1) is liable, for each day or part of a day on which the offence occurs or continues, to a fine of,

- (a) not less than \$25,000 and not more than \$6,000,000 on a first conviction;
- (b) not less than \$50,000 and not more than \$10,000,000 on a second conviction; and
- (c) not less than \$100,000 and not more than \$10,000,000 on each subsequent conviction. 2005, c. 12, s. 2 (34).

Individuals

- (3) Every individual convicted of an offence described in subsection (1) is liable,
- (a) for each day or part of a day on which the offence occurs or continues, to a fine of,
 - (i) not less than \$5,000 and not more than \$4,000,000 on a first conviction,
 - (ii) not less than \$10,000 and not more than \$6,000,000 on a second conviction, and
 - (iii) not less than \$20,000 and not more than \$6,000,000 on each subsequent conviction;
 - (b) to imprisonment for a term of not more than five years less one day; or
 - (c) to both such fine and imprisonment. 2005, c. 12, s. 2 (34).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 72 - 1/02/1999

2000, c. 22, s. 2 (5-7) - 21/11/2000

2005, c. 12, s. 2 (34) - 13/06/2005

Number of convictions

110 In determining the number of a person's previous convictions for the purpose of sections 108 and 109, the court shall include previous convictions of the person under,

- (a) this Act;
- (b) the *Environmental Protection Act*, other than for an offence related to Part IX of that Act;
- (b.1) the *Nutrient Management Act, 2002*;
- (c) the *Pesticides Act*;
- (d) the *Safe Drinking Water Act, 2002*; or
- (e) the *Toxics Reduction Act, 2009*. R.S.O. 1990, c. O.40, s. 110; 1992, c. 23, s. 39 (9); 1993, c. 27, Sched.; 1998, c. 35, s. 73; 2002, c. 4, s. 65 (3); 2005, c. 12, s. 2 (35); 2007, c. 10, Sched. D, s. 2 (17); 2009, c. 19, s. 70 (9).

Section Amendments with date in force (d/m/y)

1992, c. 23, s. 39 (9) - 1/07/1993; 1993, c. 27, Sched. - 31/12/1991; 1998, c. 35, s. 73 - 1/02/1999

2002, c. 4, s. 65 (3) - 1/07/2003

2005, c. 12, s. 2 (35) - 13/06/2005

2007, c. 10, Sched. D, s. 2 (17) - 4/06/2007

2009, c. 19, s. 70 (9) - 1/01/2010

Sentencing considerations

110.1 (1) Subject to subsection (3), in determining a penalty under section 108 or 109, the court shall consider each of the following circumstances to be aggravating factors:

1. The offence caused an impairment of the quality of water.
2. The defendant committed the offence intentionally or recklessly.
3. In committing the offence, the defendant was motivated by a desire to increase revenue or decrease costs.
4. The defendant committed the offence despite having been warned by the Ministry of circumstances that subsequently became the subject of the offence.
5. After the commission of the offence, the defendant,
 - i. attempted to conceal the commission of the offence from the Ministry or other public authorities,

- ii. failed to co-operate with the Ministry or other public authorities,
 - iii. failed to take prompt action to mitigate the effects of the offence, including action to compensate persons for loss or damage that resulted from the commission of the offence, or
 - iv. failed to take prompt action to reduce the risk of similar offences being committed in the future.
6. The defendant previously contravened legislation of Ontario or another jurisdiction that is intended to prevent or minimize harm to the natural environment.
7. Any other circumstance that is prescribed by the regulations as an aggravating factor. 2005, c. 12, s. 2 (36).

Severity of penalty

(2) Subject to subsection (3), the severity of a penalty under section 108 or 109 shall reflect the number of aggravating factors that apply under subsection (1) and the seriousness of the particular circumstances of each of those aggravating factors. 2005, c. 12, s. 2 (36).

Reasons

(3) If the court decides that an aggravating factor that applies under subsection (1) does not warrant a more severe penalty, the court shall give reasons for that decision. 2005, c. 12, s. 2 (36).

Compliance with order not a mitigating factor

(4) Subject to subsection (5), in determining a penalty under section 108 or 109, the court shall not consider compliance with an order issued under this Act in response to the offence to be a mitigating factor. 2005, c. 12, s. 2 (36).

Reasons

(5) If the court decides that compliance with an order issued under this Act in response to the offence warrants a less severe penalty, the court shall give reasons for that decision. 2005, c. 12, s. 2 (36).

Environmental penalty

(6) If an order is made requiring a person to pay an environmental penalty in respect of a contravention and the person is also convicted of an offence in respect of the same contravention, the court, in determining a penalty under section 108 or 109, shall consider the order to pay the environmental penalty to be a mitigating factor and, if subsection 109 (2) or (3) applies, may impose a fine of less than the minimum fine provided for in that subsection. 2005, c. 12, s. 2 (36).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (36) - 13/06/2005

Penalty re monetary benefit

111 The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided. R.S.O. 1990, c. O.40, s. 111.

Order to prevent damage, etc.

112 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person,

- (a) to take such action, including but not limited to providing a temporary or permanent alternate water supply, as the court directs within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is in any way connected to the commission of the offence; and
- (b) to comply with any order, notice, direction, requirement or report made under this Act and directed to the person in relation to damage that results from or is in any way connected to the commission of the offence. 1998, c. 35, s. 74 (1); 2005, c. 12, s. 2 (37).

Other conditions

(2) An order under subsection (1) may contain such other conditions relating to the circumstances of the offence and of the person that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation. R.S.O. 1990, c. O.40, s. 112 (2); 2006, c. 19, Sched. K, s. 3 (5).

Variation of order

(3) The court that made an order under subsection (1) may make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances,

- (a) on its own initiative at any time; or
- (b) on application by counsel for the prosecutor, by the person convicted or by the person authorized under the *Law Society Act* to represent the person convicted, with notice to the other party, after a hearing or, with the consent of the parties, without a hearing. 2006, c. 21, Sched. C, s. 125 (3).

Conflict

(4) Nothing in subsection (1) authorizes the making of an order that conflicts with an order, notice, direction or requirement or prevents the implementation of a report previously made under this Act by the Minister or a Director, but an order may be made under subsection (1) supplementing the provisions of an order in respect of the prevention, decrease or elimination of harm to the environment and the restoration of the environment. R.S.O. 1990, c. O.40, s. 112 (4).

(5) REPEALED: 1998, c. 35, s. 74 (2).

Continuation in force

(6) Where a person bound by an order under subsection (1) is imprisoned, the order continues in force except in so far as the imprisonment renders it impossible for the person to comply for the time being with the order. R.S.O. 1990, c. O.40, s. 112 (6).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 74 (1, 2) - 1/02/1999

2005, c. 12, s. 2 (37) - 13/06/2005

2006, c. 19, Sched. K, s. 3 (5) - 22/06/2006; 2006, c. 21, Sched. C, s. 125 (3) - 1/05/2007

Restitution orders

112.1 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may make an order for restitution against the person convicted of the offence, requiring the person to pay another person for reasonable expenses actually incurred by the other person on account of damage to property in which the other person has an interest that results from or is in any way connected to the commission of the offence, in such amount and on such terms and conditions as the court considers just. 1998, c. 35, s. 75.

Expenses incurred, interpretation

(2) For the purposes of subsection (1), expenses are incurred on account of damage to property if they are incurred,

- (a) to prevent, eliminate or ameliorate the damage;
- (b) to replace the property that suffered the damage; or
- (c) to restore the property to the state that it was in before the damage. 1998, c. 35, s. 75.

Same

(3) For greater certainty, for the purposes of clause (2) (a), expenses incurred to provide a temporary or permanent alternate water supply may be expenses incurred to prevent, eliminate or ameliorate damage. 1998, c. 35, s. 75; 2005, c. 12, s. 2 (38).

Amount of order

(4) The amount of the order for restitution shall not exceed the replacement value of the property as of the date the order is issued. 1998, c. 35, s. 75.

No restitution to person who committed offence

(5) The court shall not make an order for restitution in favour of any person on account of damage that is the result of,

- (a) the commission of an offence by the person; or
- (b) a contravention in respect of which an order has been served on the person requiring the person to pay an environmental penalty, unless the order has been revoked. 1998, c. 35, s. 75; 2005, c. 12, s. 2 (39).

Notification of order

(6) Where a court makes an order for restitution, it shall cause a copy of the order or a notice of the content of the order to be given to the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 75.

Filing of order in court

(7) An order for restitution may be filed with a local registrar of the Superior Court of Justice and the responsibility for filing shall be on the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 75; 2001, c. 9, Sched. G, s. 6 (50).

Enforcement of order

(8) An order for restitution filed under subsection (7) may be enforced as if it were an order of the court. 1998, c. 35, s. 75.

Same

(9) Section 129 of the *Courts of Justice Act* applies in respect of an order for restitution filed under subsection (7) and, for the purpose, the date of filing shall be deemed to be the date of the order. 1998, c. 35, s. 75.

Civil remedy

(10) A civil remedy for an act or omission is not affected by reason only that an order for restitution under this section has been made in respect of that act or omission. 1998, c. 35, s. 75.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 75 - 1/02/1999

2001, c. 9, Sched. G, s. 6 (50) - 29/06/2001

2005, c. 12, s. 2 (38) - 13/06/2005; 2005, c. 12, s. 2 (39) - 1/08/2007

Forfeiture on conviction

112.2 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may, if conviction is in relation to an offence in connection with which a thing has been seized under section 19 or 20 or under a warrant issued under the *Provincial Offences Act*, order that the thing be forfeited to the Crown. 1998, c. 35, s. 75.

Same

(2) The court shall not make an order under subsection (1) unless the court is satisfied that,

- (a) the seizure of the thing was lawful; and
- (b) no later than seven days before the hearing of the request, written notice was provided by a provincial officer,
 - (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
 - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,
 - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
 - (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 75.

Contents of notice

(3) Notice under subsection (2) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;
- (c) the date of the seizure;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure;
- (f) a reference to the statutory provision authorizing the seizure;

- (g) a statement that an order for forfeiture of the thing is being sought under this section; and
- (h) a statement that the person to whom the notice is provided may make submissions to the court with respect to the issuance of an order under this section. 1998, c. 35, s. 75.

Disposition of things forfeited

(4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 75.

Relief against forfeiture

(5) A person who had an interest in a thing forfeited under this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 75; 2001, c. 9, Sched. G, s. 6 (50).

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with an order requiring the person to pay an environmental penalty in connection with a matter that was associated with the seizure of the thing, unless the order has been revoked; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 75; 2005, c. 12, s. 2 (40).

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 75 - 1/02/1999

2001, c. 9, Sched. G, s. 6 (50) - 29/06/2001

2005, c. 12, s. 2 (40) - 1/08/2007

Where fine not paid

112.3 (1) Where a person is convicted of an offence under this Act and a fine is imposed,

- (a) a thing seized in connection with the offence and not forfeited to the Crown under section 21.1, 21.3 or 112.2 shall not be returned until the fine has been paid; and
- (b) if payment of the fine is in default within the meaning of section 69 of the *Provincial Offences Act*, a justice may order that the thing be forfeited to the Crown.

Application of subsections 112.2 (2) to (6)

(2) Subsections 112.2 (2) to (6) apply with necessary modifications in relation to an order under clause (1) (b). 1998, c. 35, s. 75.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 75 - 1/02/1999

Costs of seizure, etc.

112.4 If a person is convicted of an offence under this Act, the justice may, in addition to any other penalty, order the person to pay all or part of the expenses incurred by the Ministry with respect to the seizure, storage or disposition of any thing seized in connection with the offence. 1998, c. 35, s. 75.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 75 - 1/02/1999

Suspension for default in payment of fine

113 (1) Where a person is in default of payment of a fine imposed upon conviction for an offence against this Act, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002*,

the *Toxics Reduction Act, 2009* or the regulations made under any of them, on the application of the Director, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that,

- (a) one or more of the person's licences be suspended; and
- (b) no licence be issued to the person,

until the fine is paid. R.S.O. 1990, c. O.40, s. 113 (1); 2002, c. 4, s. 65 (4); 2007, c. 10, Sched. D, s. 2 (18); 2009, c. 19, s. 70 (10).

Duty of Director

(2) The Director shall,

- (a) on being informed of an outstanding order referred to in subsection (1), suspend the person's licence, if it is not already suspended under another order referred to in subsection (1); and
- (b) on being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the licence are paid, reinstate the licence, unless the Director has been informed that,
 - (i) there is another outstanding order referred to in subsection (1) directing that the licence be suspended, or
 - (ii) the licence is suspended under any other order or under another statute. R.S.O. 1990, c. O.40, s. 113 (2).

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section. R.S.O. 1990, c. O.40, s. 113 (3).

Definition

(4) In this section,

“licence” means a licence or permit under this Act or the regulations. R.S.O. 1990, c. O.40, s. 113 (4).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 6 (49) - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

2002, c. 4, s. 65 (4) - 1/07/2003

2007, c. 10, Sched. D, s. 2 (18) - 4/06/2007

2009, c. 19, s. 70 (10) - 1/01/2010

Act of officer, etc., deemed act by corporation

114 For the purposes of this Act and the regulations, an act or thing done or omitted to be done by an officer, official, employee or agent of a corporation in the course of his or her employment or in the exercise of his or her powers or the performance of his or her duties shall be deemed to be also an act or thing done or omitted to be done by the corporation. R.S.O. 1990, c. O.40, s. 114.

Official documents, evidence

115 (1) In this section,

“official document” means,

- (a) an approval, certificate, consent, licence, notice, permit, order or return under this Act or the regulations,
- (b) a certificate as to service of a document mentioned in clause (a),
- (c) a certificate or report as to the analysis, description, ingredients, quality, quantity or temperature of any solid, liquid or gas or any combination of any of them,
- (d) a certificate or report as to the analysis, description, quality or quantity of any odour, heat, sound, vibration, radiation or any combination of any of them,
- (e) a certificate or report as to the custody of any solid, liquid or gas or any combination of any of them,
- (f) a certificate as to the custody of any book, record or report or as to the custody of any other document, or

- (g) a certificate as to whether or not any document or notification was received or issued by the Minister or the Ministry under this Act or the regulations.

Same

(2) An official document, other than an official document mentioned in clause (1) (c) or (d), that purports to be signed by the Minister or an employee in the Ministry shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document.

Idem

(3) An official document mentioned in clause (1) (c), (d) or (e) that purports to be signed by an analyst shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. R.S.O. 1990, c. O.40, s. 115.

Section Amendments with date in force (d/m/y)

1998, c. 35, s. 76 - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

Duty of director or officer

116 (1) Every director or officer of a corporation has a duty to take all reasonable care to prevent the corporation from,

- (a) discharging or causing or permitting the discharge of any material, in contravention of,
 - (i) this Act or the regulations, or
 - (ii) a licence, permit or approval under this Act;
- (b) failing to notify the Ministry of a discharge of any material, in contravention of,
 - (i) this Act or the regulations, or
 - (ii) a licence, permit or approval under this Act;
- (c) contravening section 98;
- (d) failing to install, maintain, operate, replace or alter any equipment or other thing, in contravention of a licence, permit or approval under this Act; or
- (e) contravening an order, direction, notice or report under this Act, other than an order under section 84 or 106.1. 2005, c. 12, s. 2 (41).

Offence

(2) Every person who has a duty under subsection (1) and who fails to carry out that duty is guilty of an offence. R.S.O. 1990, c. O.40, s. 116 (2).

Onus

(2.1) If a director or officer of a corporation is charged with an offence under subsection (2) in connection with a specific contravention of the corporation, the director or officer has the onus, in the trial of the offence, of proving that he or she carried out the duty under subsection (1) in connection with that contravention. 2005, c. 12, s. 2 (42).

Liability to conviction

(3) A director or officer of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted or convicted. R.S.O. 1990, c. O.40, s. 116 (3).

Section Amendments with date in force (d/m/y)

2005, c. 12, s. 2 (41, 42) - 13/06/2005

Français

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