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c 18 Environmental Protection Statute Law Amendment Act, 1990

Ontario

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CHAPTER 18

**An Act to amend the Environmental Protection Act
and the Ontario Water Resources Act**

Assented to June 28th, 1990

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

STAYS ON APPEAL

Environmental Protection Act

1. Subsection 122 (2) of the *Environmental Protection Act*, as re-enacted by the Statutes of Ontario, 1983, chapter 52, section 17, is repealed. R.S.O. 1980,
c. 141

2. Section 122b of the Act, as enacted by the Statutes of Ontario, 1983, chapter 52, section 19, is repealed.

3. The Act is amended by adding the following section:

122c.—(1) The commencement of a proceeding before the Board does not stay the operation of a decision or order made under this Act, other than an order to pay the costs of work made under section 124e. No automatic
stay on
appeal

(2) The Board may, on the application of a party to a proceeding before it, stay the operation of a decision or order, other than an order to monitor, record and report. Board may
grant stay

(3) The Board shall not stay the operation of a decision or order if doing so would result in, When stay
may not be
granted

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or

- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

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 Board may grant the application.

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 Board may grant the application.

Removal of stay by Board

(6) The Board, 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).

4. Section 123 of the Act, as amended by the Statutes of Ontario, 1981, chapter 49, section 3, is further amended by adding the following subsections:

Decision of Board not automatically stayed on appeal

(4) An appeal of a decision of the Board to the Divisional Court or to the Minister does not stay the operation of the decision, unless the Board orders otherwise.

Divisional Court or Minister may grant or set aside stay

(5) Where a decision of the Board 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 Board under subsection (4).

Ontario Water Resources Act

R.S.O. 1980, c. 361

5. Subsection 22-1 (7) of the *Ontario Water Resources Act*, as enacted by the Statutes of Ontario, 1981, chapter 50, section 1, is repealed.

6.—(1) Subsection 61 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by striking out “other than an emergency order” in the second and third lines.

(2) Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsection:

(1a) Subsection (1) does not apply in respect of a direction, order, report or notice that, in the Director's opinion, is made, given or issued in an emergency by reason of, Exception: emergency orders

- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of any waters or any use of waters; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

7. Section 62 of the Act, as amended by the Statutes of Ontario, 1983, chapter 51, section 4, is repealed.

8. Section 64 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 6, is repealed and the following substituted:

64.—(1) The commencement of a proceeding before the Environmental Appeal Board does not stay the operation of a direction, order, report, notice or decision made, issued or given under this Act, other than an order to pay the costs of work made under section 48e. No automatic stay on appeal

(2) The Environmental Appeal Board may, on the application of a party to a proceeding before it, stay the operation of a direction, order, report, notice or decision. Environmental Appeal Board may grant stay

(3) The Environmental Appeal Board shall not stay the operation of a direction, order, report, notice or decision if doing so would result in, When stay may not be granted

- (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.

(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 Environmental Appeal Board may grant the application. Right to apply to remove stay: new circumstances

(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, Right to apply to remove stay: new party

apply for the removal of the stay, and the Environmental Appeal Board may grant the application.

Removal of
stay by
Environ-
mental
Appeal
Board

(6) The Environmental Appeal Board, 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).

PART II

WORK DONE BY MINISTRY

Environmental Protection Act

R.S.O. 1980,
c. 141

9. Subsection 41 (2) of the *Environmental Protection Act* is repealed.

10. Section 43 of the Act is repealed.

11. Subsection 68 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 11, is repealed.

12. The Act is amended by adding the following Part:

PART XI-A

WORK DONE BY MINISTRY

Minister may
cause things
to be done

124a. Where an order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the order or decision.

Director may
cause things
to be done

124b.—(1) Where an order or decision made under this Act is not stayed, the Director may cause to be done any thing required by it if,

- (a) a person required by the order or decision to do the thing,
 - (i) has refused to comply with or is not complying with the order or decision,
 - (ii) is not likely, in the Director's opinion, to comply with the order or decision promptly,
 - (iii) is not likely, in the Director's opinion, to carry out the order or decision competently, or

(iv) requests the assistance of the Director in complying with the order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1) to each person required by an order or decision made under this Act to do the thing.

Notice of intent to cause things to be done

(3) A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the Director.

Idem

124c. Where the Director is authorized by this Act to make a decision or order requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Person liable unknown: Director may cause things to be done

124d.—(1) A person who is responsible for doing a thing under section 124a, 124b or 124c may, for the purpose, enter any place on or in which the thing is to be done and any adjacent place without a warrant if,

Entry without judicial order

(a) the entry is made with the consent of an occupier or owner of the place; or

(b) the delay necessary to obtain a warrant under subsection (2) would result in,

(i) danger to the health or safety of any person;

(ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or

(iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry into or on a place is necessary for the purpose of doing a thing under section 124a, 124b or 124c, the justice of the peace may issue a warrant authorizing the person named in the warrant to make the entry and do the thing.

Warrant authorizing entry

(3) A warrant issued under subsection (2) shall,

Execution and expiry of warrant

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter 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.

Assistance

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant.

Application without notice

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the place.

Identification

(8) On the request of an owner or occupier of the 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.

Order to pay

124e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by an order or decision made under this Act to do the thing.

Idem

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

Order to pay: contents

(3) An order under subsection (1) or (2) 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 Treasurer of Ontario.

(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. Idem

124f. At a hearing by the Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Board to amend the order by adding new items of cost or by increasing the amounts set out in the order. Costs specified in order to pay may be increased by Board

124g. At a hearing by the Board on an order under subsection 124e (1) to a person to pay the costs of doing things, the Board shall consider only whether any of the costs specified in the order, What Board may consider at hearing on subs. 124e (1) order to pay

- (a) do not relate to a thing that the person was required to do by an order or decision made under this Act, as amended by any Board decision or on any appeal from a Board decision; or

- (b) are unreasonable having regard to what was done.

124h.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court. Order to pay may be enforced as judgment of the District Court

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. Interest 1984, c. 11

124i.—(1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on real property is a thing done in connection with that property, whether or not the work is done on that property. Interpretation

(2) If an order to pay costs is directed to a person who owns real property in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that property, the municipality shall have a lien on the property for those amounts and they shall be deemed to be municipal taxes in respect of the property and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes. Costs specified in order to pay may be collected as taxes

- Idem
1984, c. 84
- (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 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.
- 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 Treasurer of Ontario.
- Interpretation: cancellation price
Proceeds of tax sale
R.S.O. 1980, cc. 166, 361
- (5) In subsections (6) and (7), "cancellation price" has the same meaning as in the *Municipal Tax Sales Act, 1984*.
- (6) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Fire Marshals Act* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land.
- Cancellation price
- (7) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Fire Marshals Act* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*.
- Idem, territory without municipal organization
R.S.O. 1980, c. 399
- (8) If an order to pay costs is directed to a person who owns real property in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to things done in connection with that property, the Crown shall have a lien on the property for those amounts and they shall be deemed to be taxes in respect of the property imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act.
- Idem
- (9) An instruction under subsection (2) or (8) shall state which of the amounts specified in the order to pay relate to things done in connection with the property.
- Costs specified in order to pay may be recovered from deposit, financial assurance
- 124j.** Where an order to pay costs is directed to a person who has given a deposit under section 34 or financial assurance under Part X-A, the deposit or financial assurance may be used to recover amounts specified in the order to pay.

13. Section 143 of the Act is repealed.

14. Subsection 146 (1a) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 14, is amended by inserting after "Act" in the second line "other than an order under section 124e".

Ontario Water Resources Act

15. The *Ontario Water Resources Act* is amended by adding the following sections: R.S.O. 1980,
c. 361

WORK DONE BY MINISTRY

48a.—(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. Minister may
cause things
to be done

(2) Subsection (1) does not apply in respect of reports made under section 33. Exception

48b.—(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, Director may
cause things
to be done

(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; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) Subsection (1) does not apply in respect of reports made under section 33. Exception

(3) The Director shall give notice of an intention to cause a thing to be done under this section to each person required by Notice of
intent to
cause things
to be done

a direction, order or decision made under this Act to do the thing.

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.

Person liable unknown: Director may cause things to be done

48c. 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.

Entry on land without judicial order

48d.—(1) A person who is responsible for doing a thing under section 48a, 48b or 48c may, for the purpose, enter on land on which the thing is to be done and on adjacent lands without a warrant if,

- (a) the entry is made with the consent of an occupier or owner of the land; or
- (b) the delay necessary to obtain a warrant 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.

Warrant authorizing entry on land

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry on certain land is necessary for the purpose of doing a thing under section 48a, 48b or 48c, the justice of the peace may issue a warrant authorizing the person named in the warrant to enter and do the thing on the land.

Execution and expiry of warrant

- (3) A warrant issued under subsection (2) shall,
 - (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
 - (b) state when the warrant expires.

Extension of time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

(5) A person authorized under clause (1) (b) or subsection (2) to enter on land 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. Use of force

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant. Assistance

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the land. Application without notice

(8) On the request of an owner or occupier of the land, 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. Identification

48e.—(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. Order to pay

(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. Idem

(3) An order under subsection (1) or (2) to pay costs shall include, Order to pay: contents

- (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 Treasurer of Ontario.

(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. Idem

Costs specified in order to pay may be increased by Environmental Appeal Board
 What Environmental Appeal Board may consider at hearing on subs. 48e (1) order to pay

48f. At a hearing by the Environmental Appeal Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Environmental Appeal Board to amend the order by adding new items of cost or by increasing the amounts set out in the order.

48g. At a hearing by the Environmental Appeal Board on an order under subsection 48e (1) to a person to pay the costs of doing things, the Environmental Appeal Board 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 Environmental Appeal Board decision or on any appeal from an Environmental Appeal Board decision; or
- (b) are unreasonable having regard to what was done.

Order to pay may be enforced as judgment of the District Court
 Interest
 1984, c. 11

48h.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court.

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order.

Interpretation

48i.—(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.

Costs specified in order to pay may be collected as taxes

(2) If an order to pay costs is directed to a person who owns land in a 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 be deemed to be municipal taxes in respect of the land and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

Idem

1984, c. 48

(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 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.

(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 Treasurer of Ontario. Idem

(5) In subsections (6) and (7), “cancellation price” has the same meaning as in the *Municipal Tax Sales Act, 1984*. Interpretation:
cancellation price

(6) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Environmental Protection Act* or the *Fire Marshals Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. Proceeds of tax sale
R.S.O. 1980,
cc. 141, 166

(7) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act 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 Marshals Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*. Cancellation price

(8) If an order to pay costs is directed to a person who owns land in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to work done in connection with that land, the Crown shall have a lien on the land for those amounts and they shall be deemed to be taxes in respect of the land imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act. Idem,
territory
without
municipal
organization
R.S.O. 1980,
c. 399

(9) An instruction under subsection (2) or (8) shall state which of the amounts specified in the order to pay relate to things done in connection with the land. Idem

48j. Where an order to pay costs is directed to a person who has given financial assurance under Part X-A of the *Environmental Protection Act*, the financial assurance may be used to recover amounts specified in the order to pay. Costs
specified in
order to pay
may be
recovered
from
financial
assurance
R.S.O. 1980,
c. 141

16. Section 55 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 88, is repealed.

17. Subsection 66 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41 and amended by 1988,

chapter 54, section 88, is further amended by inserting after “Act” in the third line “other than an order under section 48e”.

PART III

MISCELLANEOUS

Environmental Protection Act

R.S.O. 1980,
c. 141

18. Subsection 6 (1) of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1986, chapter 68, section 3 and 1988, chapter 54, section 3, is repealed and the following substituted:

Control
orders

(1) When the report of a provincial officer contains a finding that a contaminant discharged into the natural environment is a contaminant the use of which is prohibited by the regulations or is being discharged in contravention of section 13 or the regulations, the Director may issue a control order directed to,

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

19. Subsection 7 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 4, is further amended by striking out “the person responsible for the source of contaminant” at the end and by adding the following clauses:

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

20. Section 16 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 12, is repealed and the following substituted:

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

Remedial orders

- (a) repair the injury or damage;
- (b) prevent the injury or damage; or
- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide alternate water supplies.

21. Subsection 17 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 52, section 6 and amended by 1988, chapter 54, section 13, is further amended by striking out “or who has” in the third line and substituting “or owned or who has or had”.

22. Subsection 41 (1) of the Act is amended by striking out “the occupant or the person having” in the fourth line and substituting “an owner or previous owner, an occupant or previous occupant or a person who has or had”.

23. Section 42 of the Act is amended by striking out “the owner” in the third line and substituting “an owner or previous owner”.

24. The Act is amended by adding the following section:

120a. When the Director makes an order or decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the order or decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the order or decision requires something to be done, permits something to be done or prohibits something from being done.

Notice to municipalities

25. The Act is further amended by renumbering section 122a, as enacted by the Statutes of Ontario, 1983, chapter 52, section 18, as section 122b and by adding the following section:

122a. The Board shall extend the time in which a person may give a notice under section 121 or 122 requiring a hearing on an order or decision where, in the Board’s opinion, it is just to do so because service of the order or decision on the person did not give the person notice of the order or decision.

Extension of time for requiring hearing

26. Subsection 136 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23 and 1988, chapter 54, section 45, is further amended by adding the following clauses:

- (r) providing for the method of service of any document or class of documents given or served under this Act;
- (s) prescribing any matter referred to in this Act as prescribed.

27.—(1) Subsection 142 (1) of the Act is repealed and the following substituted:

Service

(1) Any document given or served under this Act or the regulations is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations respecting service.

(2) Subsection 142 (2) of the Act is amended by striking out “registered” in the first line.

28. Subsection 146a (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 15 and amended by 1989, chapter 72, section 32, is repealed and the following substituted:

Penalty re
actual
pollution

(1) Every corporation convicted of a contravention of subsection 13 (1) or 119 (1) is liable on conviction for each day or part of a day on which the offence occurs or continues to a fine of not less than \$2,000 and not more than \$200,000 on a first conviction and not less than \$4,000 and not more than \$400,000 on each subsequent conviction and not as provided in section 146.

29. Subsections 147 (3) and (4) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 68, section 16 and amended by 1988, chapter 54, section 49 and 1989, chapter 72, section 32, are repealed and the following substituted:

(3) Where a natural person is convicted of an offence referred to in subsection (1) that results in an adverse effect, the person is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$50,000 on a first conviction and not less than \$4,000 and not more than \$100,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Penalty where adverse effect occurs

(4) Where a corporation is convicted of an offence referred to in subsection (1) that results in an adverse effect, the corporation is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$1,000,000 on a first conviction and not less than \$4,000 and not more than \$2,000,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Idem, corporation

30. Section 148 of the Act, as enacted by the Statutes of Ontario, 1981, chapter 49, section 5, is repealed and the following substituted:

148.—(1) Proceedings for an offence under this Act or the regulations shall not be commenced later than two years after the later of,

Limitation

- (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 4.

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section.

Idem

31. Section 149 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 52, section 25, is amended by adding the following subsection:

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing.

Idem

32. The Act is further amended by adding the following section:

150.—(1) A person who has authority under this Act to make an order or decision affecting real property also has authority to prohibit any person with an interest in the prop-

Certain dealings with real property prohibited

erty from dealing with the property in any way without first giving a copy of the order or decision to each person acquiring an interest in the property as a result of the dealing.

Registration
of
prohibitions

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Idem

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.

Prohibited
dealings
voidable

(4) A dealing with real property by a person who is prohibited under subsection (1) or (3) from dealing with the property without giving a copy of an order or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the property as a result of the dealing.

Registration
of withdrawal
of prohibition

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Idem
R.S.O. 1980,
c. 445

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

Ontario Water Resources Act

R.S.O. 1980,
c. 361

33. Subsection 44 (1) of the *Ontario Water Resources Act*, as amended by the Statutes of Ontario, 1981, chapter 50, section 2, 1983, chapter 51, section 3, 1986, chapter 68, section 35 and 1988, chapter 54, section 76, is further amended by adding the following clauses:

- (ta) providing for the method of service of any document or class of document given or served under this Act;

- (tb) prescribing any matter referred to in this Act as prescribed.

34. Section 54 of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 50, section 3, is repealed and the following substituted:

54.—(1) Proceedings for an offence under this Act or the regulations made under this Act shall not be commenced later than two years after the later of, Limitations

- (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 4.

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section. Idem

35. Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsections:

(2c) The Environmental Appeal Board shall extend the time in which a person may give a notice under subsection (2a) requiring a hearing on a notice, direction, report, order or other decision where, in the opinion of the Environmental Appeal Board, it is just to do so because service of the notice referred to in subsection (2) did not give the person notice of the decision. Extension of time for requiring hearing

(2d) When the Director makes a notice, direction, report, order or other decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the notice, 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 notice, direction, report, order or other decision requires something to be done, permits something to be done or prohibits something from being done. Notice to municipalities

36. The Act is amended by adding the following section:

64a.—(1) A person who has authority under this Act to make a direction, order, notice or decision affecting land also has authority to prohibit any person with an interest in the land from dealing with the land in any way without first giving Certain dealings with land prohibited

a copy of the direction, order, notice or decision to each person acquiring an interest in the land as a result of the dealing.

Registration
of
prohibitions

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Idem

(3) A prohibition set out in a certificate that is 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.

Prohibited
dealings with
land voidable

(4) A dealing with land by a person who is prohibited under subsection (1) or (3) from dealing with the land without giving a copy of a direction, order, notice or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the land as a result of the dealing.

Registration
of withdrawal
of prohibition

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Idem
R.S.O. 1980,
c. 445

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

37. Section 65 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 7, is amended by adding the following subsection:

Idem

(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.

38.—(1) Subsection 65b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is repealed and the following substituted:

(1) Any document given or served under this Act or the regulations made under this Act is sufficiently given or served if it is, Service

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations made under this Act respecting service.

(2) Subsection 65b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is amended by striking out “registered” in the first line.

39. This Act comes into force on the day it receives Royal Assent. Commence-
ment

40. The short title of this Act is the *Environmental Protection Statute Law Amendment Act, 1990.* Short title

