

Nutrient Management Act, 2002

S.O. 2002, CHAPTER 4

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PART I
PURPOSE, DEFINITIONS AND ADMINISTRATION

Purpose

1 The purpose of this Act is to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development.
2002, c. 4, s. 1.

Definitions

2 In this Act,

“administrative penalty” means a penalty imposed under section 40 or 40.1; (“pénalité administrative”)

“agricultural machinery and equipment” includes equipment used for the management of materials containing nutrients;
 (“machines et matériel agricoles”)

“agricultural operation” means an agricultural, aquacultural, horticultural or silvicultural operation and includes,

- (a) draining, irrigating or cultivating land,
- (b) growing, producing or raising farm animals,

- (c) the production of agricultural crops, including greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, trees and turf grass, and any additional agricultural crops prescribed by the regulations,
- (d) the production of eggs, cream and milk,
- (e) the operation of agricultural machinery and equipment,
- (f) ground and aerial spraying,
- (g) the management of materials containing nutrients for farm purposes,
- (h) the processing by a farmer of the products produced primarily from the farmer's agricultural operation,
- (i) activities that are a necessary but ancillary part of an agricultural operation such as the use of transport vehicles for the purposes of the agricultural operation, and
- (j) any other agricultural activity prescribed by the regulations, conducted on, in or over agricultural land; ("exploitation agricole")

"analyst" means an analyst appointed under subsection 5 (1); ("analyste")

"approval" means an approval of a nutrient management plan or a nutrient management strategy that is issued in accordance with a regulation made under clause 6 (2) (h), (i) or (k); ("approbation")

"certificate" means a certificate to carry out prescribed nutrient management practices that is issued in accordance with a regulation made under clause 6 (2) (c); ("certificat")

"Director" means a Director appointed under subsection 3 (1); ("directeur")

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

"farm animal" means,

- (a) livestock, including poultry and ratites,
- (b) fur-bearing animals,
- (c) bees,
- (d) cultured fish,
- (e) deer and elk,
- (f) game animals and birds, or
- (g) any additional animals, birds or fish prescribed by the regulations; ("animal d'élevage")

"farmer" means the owner or operator of an agricultural operation; ("agriculteur")

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

"licence" means a licence for applying materials containing nutrients to land that is issued in accordance with a regulation made under clause 6 (2) (e); ("permis")

"management", in respect of materials containing nutrients, includes the collection, purchase, acquisition, storage, handling, treatment, sale, transfer, transportation, application, use and disposal of the materials, and "manage" has a corresponding meaning; ("gestion", "gérer")

"Minister" means the Minister responsible for the administration of this Act unless the context indicates otherwise; ("ministre")

"Ministry" means the Ministry of the Minister; ("ministère")

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

"nutrient" means any material, including fertilizer, manure, compost, sewage biosolids and pulp and paper biosolids, that can be applied to land for the purpose of improving the growing of agricultural crops or for the purpose of a prescribed use, but does not include any material that the regulations specify does not come within the definition of "nutrient"; ("élément nutritif")

“nutrient management plan” means a plan for the management of materials containing nutrients that may be applied to lands, which plan is prepared in accordance with the regulations; (“plan de gestion des éléments nutritifs”)

“nutrient management strategy” means a plan prepared by or on behalf of a municipality or a generator of prescribed materials to ensure the prescribed materials generated in the municipality or by the generator are appropriately managed and may include one or more nutrient management plans; (“stratégie de gestion des éléments nutritifs”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“processing” includes sawing, cleaning, treating, grading and packaging to the extent that these activities relate to products primarily from an agricultural operation and are conducted as a part of an agricultural operation; (“traitement”)

“provincial officer” means a provincial officer designated under subsection 4 (1); (“agent provincial”)

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

“Tribunal” means the Ontario Land Tribunal. (“Tribunal”) 2002, c. 4, s. 2; 2009, c. 33, Sched. 15, s. 7 (1, 2); 2019, c. 14, Sched. 8, s. 25; 2021, c. 4, Sched. 6, s. 70.

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

2009, c. 33, Sched. 15, s. 7 (1, 2) - 15/12/2009

2019, c. 14, Sched. 8, s. 25 - 10/12/2019

2021, c. 4, Sched. 6, s. 70 - 01/06/2021

Directors

3 (1) Any Minister responsible for the administration of a provision of this Act may in writing appoint as Directors any of the following persons as the Minister considers necessary:

1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
2. Subject to the approval of the Lieutenant Governor in Council, any other persons or the members of any other classes of persons. 2006, c. 35, Sched. C, s. 92 (1).

Powers

(2) Directors shall act as Directors in respect of those sections of this Act, those regulations and those sections of those regulations that are set out in their appointment. 2002, c. 4, s. 3 (2).

Limitation of authority

(3) In an appointment of a Director, the Minister may limit the authority of the Director in the manner that the Minister considers necessary or advisable. 2002, c. 4, s. 3 (3).

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

2006, c. 35, Sched. C, s. 92 (1) - 20/08/2007

Provincial officers

4 (1) Any Minister responsible for the administration of a provision of this Act may in writing designate as provincial officers any of the following persons as the Minister considers necessary:

1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
2. Any other persons or the members of any other classes of persons. 2006, c. 35, Sched. C, s. 92 (2).

Powers

(2) Provincial officers shall act as provincial officers in respect of those sections of this Act, those regulations and those sections of those regulations that are set out in their designation. 2002, c. 4, s. 4 (2).

Limitation of authority

(3) In a designation of a provincial officer, the Minister may limit the authority of the provincial officer in the manner that the Minister considers necessary or advisable. 2002, c. 4, s. 4 (3).

Peace officers

(4) A provincial officer is a peace officer for the purpose of enforcing this Act. 2002, c. 4, s. 4 (4).

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. 2002, c. 4, s. 4 (5).

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

2006, c. 35, Sched. C, s. 92 (2) - 20/08/2007

Analysts

5 (1) Any Minister responsible for the administration of a provision of this Act may in writing appoint as analysts any of the following persons as the Minister considers necessary:

1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
2. Any other persons or the members of any other classes of persons. 2006, c. 35, Sched. C, s. 92 (3).

Powers

(2) Analysts shall act as analysts in respect of those sections of this Act, those regulations and those sections of those regulations that are set out in their appointment. 2002, c. 4, s. 5 (2).

Limitation of authority

(3) In an appointment of an analyst, the Minister may limit the authority of the analyst in the manner that the Minister considers necessary or advisable. 2002, c. 4, s. 5 (3).

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

2006, c. 35, Sched. C, s. 92 (3) - 20/08/2007

PART II MANAGEMENT OF MATERIALS CONTAINING NUTRIENTS AND REGULATIONS RESPECTING FARM ANIMALS

Nutrient management standards

6 (1) The Lieutenant Governor in Council may make regulations,

- (a) establishing standards respecting the management of materials containing nutrients used by and on agricultural operations or used for other uses;
- (b) establishing standards respecting farm practices and other uses to be followed with respect to the materials mentioned in clause (a);
- (c) requiring farmers and other persons to comply with the standards mentioned in clause (a) or (b). 2002, c. 4, s. 6 (1).

Same

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) governing the management of materials containing nutrients including,
 - (i) specifying standards for the size, capacity and location of buildings or structures that are used to store materials containing nutrients or to house farm animals, including buildings or structures that are not buildings as defined in subsection 1 (1) of the *Building Code Act, 1992*,
 - (ii) specifying standards relating to the construction, on an agricultural operation, of the buildings or structures to which subclause (i) applies and requiring excavations to be carried out around them, including the formation of earth barriers, and specifying standards for the excavations,
 - (iii) respecting the amount of materials containing nutrients that may be applied to lands, the quality of the materials and the type of land to which the materials or a type of the materials may be applied,
 - (iv) respecting the time and manner in which materials containing nutrients may be applied to lands,
 - (v) specifying standards for equipment used to transport and apply materials containing nutrients, and

- (vi) respecting technologies used for the management of materials containing nutrients, including prescribing conditions for the use of the technologies and respecting the manner and the circumstances in which they may be used;
- (b) requiring farmers and other persons to meet prescribed qualifications and to pass prescribed examinations in relation to the application of materials containing nutrients to lands;
- (c) respecting the qualifications, education, training and certification necessary in order to carry out prescribed nutrient management practices and prohibiting persons other than those with the prescribed qualifications, education, training or certification from performing the prescribed nutrient management practices in an agricultural operation;
- (d) prohibiting persons from engaging in the business of applying materials containing nutrients to lands unless licensed to do so;
- (e) respecting the licensing of persons who are engaged in the business of applying materials containing nutrients to lands, respecting applications for the licences and the issuing, renewing, expiration, suspension and cancellation of the licences, respecting the qualifications for the licences and specifying the conditions of the licences;
- (f) prohibiting the application of materials containing nutrients to lands except in accordance with a nutrient management plan prepared or approved in accordance with the regulations and permitting deviations from the plan in the circumstances specified in the regulations or where the deviation is approved by a person specified in the regulations;
- (g) governing the preparation of nutrient management plans, requiring farmers and others to ensure that a nutrient management plan is prepared in relation to their operations and specifying the method according to which the plan must be prepared and the contents of the plan;
- (g.1) governing the preparation of nutrient management strategies, requiring that municipalities and generators of prescribed materials ensure that a nutrient management strategy is prepared and specifying the method according to which the strategy must be prepared and the contents of the strategy;
- (h) requiring that nutrient management plans for agricultural operations, or for prescribed classes of agricultural operations, be prepared or approved by persons who meet the qualifications specified in the regulations or who are appointed by any Minister responsible for the administration of a provision of this Act for the purpose of giving the approval;
- (i) requiring that nutrient management strategies for municipalities and generators of prescribed materials, or for prescribed classes of those municipalities and generators, be prepared or approved by persons who meet the qualifications specified in the regulations or who are appointed by any Minister responsible for the administration of a provision of this Act for the purpose of giving the approval;
- (j) providing for the issue of approvals and their termination and amendment;
- (k) specifying the length of time for which a nutrient management plan or a nutrient management strategy is valid and requiring that, at the prescribed times or when there is a prescribed change in the agricultural operation or other prescribed activity, a new plan or strategy be prepared and approved or an existing plan or strategy be amended and approved;
- (l) providing for the amendment or termination of nutrient management plans or nutrient management strategies by persons who are appointed by any Minister responsible for the administration of a provision of this Act for the purposes of doing those amendments or terminations, if the plans or strategies are not in accordance with the regulations;
- (m) requiring that a nutrient management plan, nutrient management strategy or any other record or document required under this Act be,
 - (i) kept by the farmer or the other persons that are specified in the regulations for the period of time specified in the regulations, or
 - (ii) filed in accordance with the requirements specified in the regulations;
- (n) providing for the establishment of a registry in which nutrient management plans, nutrient management strategies and other prescribed documents relating to this Act shall be recorded or providing for the use of any other registry for recording those plans, strategies and documents;
- (o) providing for access to the documents in a registry described in clause (n) or portions of them;

- (p) requiring that persons who manage materials containing nutrients gather samples of them in accordance with the requirements specified in the regulations and submit them, in accordance with the requirements specified in the regulations, to prescribed persons for the purpose of a chemical analysis;
- (q) governing the manner in which the chemical analysis mentioned in clause (p) is to be performed and requiring that the persons who perform it make the reports on it that are specified in the regulations;
- (r) requiring that studies be conducted in relation to the use of materials containing nutrients on lands, including topographical studies and studies to determine soil types on those lands and studies to determine the depth, volume, direction of flow and risk of contamination of water located on, in and under those lands;
- (s) requiring that the studies mentioned in clause (r) be conducted by a person who has the prescribed qualifications;
- (t) requiring that the recommendations, if any, contained in the studies mentioned in clause (r) be followed in the use of materials containing nutrients on the lands being studied;
- (u) respecting minimum distance separation requirements between,
 - (i) lands to which materials containing nutrients are applied or places in which materials containing nutrients are stored or farm animals are housed, and
 - (ii) properties surrounding the lands or places described in subclause (i) or those other places or geographic features that are specified in the regulations;
- (v) requiring that materials containing nutrients be managed in an environmentally responsible manner as specified in the regulations by persons who are engaged in the purchase, acquisition, resale or disposal of materials containing nutrients or who are otherwise engaged in the trading of materials containing nutrients;
- (w) governing the use of innovative technologies in the management of materials containing nutrients used by and on agricultural operations, including specifying conditions for the use of those technologies and respecting the manner and the circumstances in which they may be used;
- (x) requiring a farmer or whatever other person is specified in the regulations to prepare records or documents in relation to the management of materials containing nutrients and those other matters that are specified in the regulations;
- (y) requiring that a nutrient management plan, nutrient management strategy or any other record or document that must be prepared, kept or filed under this Act, be prepared, kept or filed in an electronic format and respecting requirements for the preparation, keeping and filing of those plans, records and documents in an electronic format;
- (z) prohibiting a farmer from,
 - (i) constructing a structure or a building to be used to house farm animals or to store materials containing nutrients,
 - (ii) enlarging an existing structure or building that is used to house farm animals or to store materials containing nutrients, or
 - (iii) converting an existing structure or building into one that is used to house farm animals or to store materials containing nutrients,
 unless the farmer has,
 - (iv) prepared and filed a nutrient management plan or a nutrient management strategy in accordance with the requirements specified in the regulations, and
 - (v) met the requirements specified in the regulations with respect to the site and construction of the structure or building;
- (z.1) respecting the issuance of certificates to a farmer as evidence that the farmer is in compliance with this Act and the regulations and respecting the cancellation, expiry and renewal of the certificates;
- (z.2) providing for the establishment and operation of local committees to assist in the doing of any prescribed matters including mediation of disputes in connection with the management of materials containing nutrients on lands. 2002, c. 4, s. 6 (2); 2009, c. 33, Sched. 15, s. 7 (3).

Director's powers

- (3) A Director may, in accordance with the regulations,
 - (a) issue, amend, suspend or revoke a certificate, licence or approval; or
 - (b) impose or amend conditions on a certificate, licence or approval. 2002, c. 4, s. 6 (3).

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

2009, c. 33, Sched. 15, s. 7 (3) - 15/12/2009

Regulations, farm animals, etc.

7 The Lieutenant Governor in Council may make regulations,

- (a) regulating the use of prescribed nutrients on lands used for the production of prescribed crops;
- (b) regulating the access of farm animals and persons to lands to which prescribed nutrients have been applied;
- (c) governing the location and operation of feed lots and other places where farm animals are kept outside;
- (d) restricting the access of farm animals to water and watercourses;
- (e) governing the disposal, storage and transportation of dead farm animals. 2002, c. 4, s. 7.

**PART III
HEARING BY TRIBUNAL**

Notice of Director's action

8 (1) A Director who issues or amends a certificate, licence or approval, who imposes or amends conditions on a certificate, licence or approval or who suspends or revokes a certificate, licence or approval shall serve a written notice of the Director's action, containing reasons, on the holder of the certificate, licence or approval, as the case may be. 2002, c. 4, s. 8 (1).

Non-issuance or non-renewal

(2) A Director who refuses to issue or renew a certificate, licence or approval shall serve a written notice of the Director's action, containing reasons, on the person to whom the Director refused to issue or renew the certificate, licence or approval, as the case may be. 2002, c. 4, s. 8 (2).

Right to hearing

9 (1) A person who receives a notice described in subsection 8 (1) or (2) may require a hearing by the Tribunal by serving a written notice of the requirement on the Director and the Tribunal within 15 days after service of the notice described in that subsection. 2002, c. 4, s. 9 (1).

Same, order

(2) If a Director makes, amends, revokes or is deemed to have made an order under this Act, the person to whom the order is directed may require a hearing by the Tribunal by serving a written notice of the requirement on the Director and the Tribunal within 15 days after service of notice of the order. 2002, c. 4, s. 9 (2).

No order

(3) The refusal by the Director to make, amend or revoke an order does not itself constitute an order. 2002, c. 4, s. 9 (3).

No right to hearing

- (4) A person is not entitled to require a hearing under subsection (1) or (2) if the person receives,
- (a) notice that the Director has issued the certificate, licence or approval for which the person applied; or
 - (b) notice of an action that the Tribunal has directed the Director to take under clause 11 (1) (b). 2002, c. 4, s. 9 (4).

Extension of time

(5) The Tribunal shall extend the time in which a person may give a notice under subsection (1) or (2) requiring a hearing on a decision or order if, in the Tribunal's opinion, it is just to do so because service of the decision or order on the person did not give the person notice of the decision or order. 2002, c. 4, s. 9 (5).

Contents of notice

- (6) An applicant for a hearing by the Tribunal shall state in the notice requiring the hearing,
- (a) the portions of the certificate, licence, approval or order 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. 2002, c. 4, s. 9 (6).

Effect of contents of notice

(7) Except with leave of the Tribunal, at a hearing by the Tribunal an applicant is not entitled to appeal a portion of the certificate, licence, approval or order, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing. 2002, c. 4, s. 9 (7).

Leave by Tribunal

(8) The Tribunal may grant the leave mentioned in subsection (7) if the Tribunal is of the opinion that to do so is proper in the circumstances, and the Tribunal may give the directions that the Tribunal considers proper consequent upon the granting of the leave. 2002, c. 4, s. 9 (8).

No automatic stay

10 (1) The commencement of a hearing before the Tribunal does not stay the operation of the certificate, licence, approval or order in respect of which the hearing is required, except if the order is an order to pay the costs of work made under section 36 or an order in respect of an administrative penalty. 2002, c. 4, s. 10 (1); 2019, c. 14, Sched. 8, s. 26.

Grant of stay

(2) The Tribunal may, on the application of a party to a hearing before it, stay the operation of the certificate, licence, approval or order in respect of which the hearing is required, except if the order is an order to monitor, record and report. 2002, c. 4, s. 10 (2).

Parties

(3) The person requiring the hearing, the Director and any other person specified by the Tribunal are parties to the hearing. 2002, c. 4, s. 10 (3).

No stay

(4) The Tribunal shall not stay the operation of the certificate, licence, approval or order in respect of which the hearing is required if doing so would result in,

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2002, c. 4, s. 10 (4).

Application for removal of stay

(5) A party to the hearing 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. 2002, c. 4, s. 10 (5).

Application by new party

(6) A person who is made a party to the hearing 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. 2002, c. 4, s. 10 (6); 2009, c. 19, s. 69 (1).

Removal of stay

(7) The Tribunal, on the application of a party under subsection (5) or (6), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (4) (a) to (c). 2002, c. 4, s. 10 (7).

Conditions

(8) The Tribunal may impose conditions on granting or removing a stay under this section. 2002, c. 4, s. 10 (8).

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

2009, c. 19, s. 69 (1) - 1/01/2010

2019, c. 14, Sched. 8, s. 26 - 10/12/2019

Powers of Tribunal

11 (1) A hearing by the Tribunal shall be a new hearing and the Tribunal may,

- (a) confirm, alter or revoke the action of the Director that is the subject-matter of the hearing;

- (b) by order direct the Director to take the action that the Tribunal considers the Director should take in accordance with this Act and the regulations;
- (c) for the purposes of clauses (a) and (b), substitute its opinion for that of the Director. 2002, c. 4, s. 11 (1).

Order to pay an administrative penalty

(1.1) For greater certainty, if a hearing by the Tribunal is required under this section in relation to an order to pay an administrative penalty, the regulations made under clause 40 (14) (c) governing the determination of the amounts of administrative penalties apply to the Tribunal. 2019, c. 14, Sched. 8, s. 27.

Same

(1.2) If a hearing by the Tribunal is required under this section in relation to an order to pay an administrative penalty, the Tribunal shall not substitute its opinion for that of the Director with respect to the amount of the penalty unless the Tribunal considers the amount to be unreasonable. 2019, c. 14, Sched. 8, s. 27.

Appeal to court

- (2) A party to a hearing before the Tribunal under this section may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. 2002, c. 4, s. 11 (2).
- (3) REPEALED: 2021, c. 4, Sched. 10, s. 3 (1).

No automatic stay

(4) An appeal of a decision of the Tribunal to the Divisional Court does not stay the operation of the decision unless the Tribunal orders otherwise. 2002, c. 4, s. 11 (4); 2021, c. 4, Sched. 10, s. 3 (2).

Power of court

- (5) If a decision of the Tribunal is appealed to the Divisional Court, the Divisional Court may,
 - (a) stay the operation of the decision; or
 - (b) set aside a stay ordered by the Tribunal under subsection (4). 2002, c. 4, s. 11 (5); 2021, c. 4, Sched. 10, s. 3 (3).

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

- 2019, c. 14, Sched. 8, s. 27 - 10/12/2019
- 2021, c. 4, Sched. 10, s. 3 (1-3) - 01/06/2021

**PART IV
INSPECTIONS AND ORDERS**

INSPECTIONS

Identification

12 On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer, either by producing a copy of his or her designation or in some other manner, and shall explain the purpose of the exercise of the power. 2002, c. 4, s. 12.

Inspection without warrant

- 13** (1) For the purposes of the administration of this Act or the regulations, a provincial officer may, without warrant or court order, enter and inspect, in accordance with this section, any land or premises that,
- (a) are used by, or are part of, an agricultural operation or other operation regulated under this Act; or
 - (b) the officer believes on reasonable grounds contain documents relating to an agricultural operation or other operation regulated under this Act. 2002, c. 4, s. 13 (1).

Dwellings

(2) A provincial officer shall not exercise a power conferred by this section to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order issued under section 16. 2002, c. 4, s. 13 (2).

Time of entry

(3) A provincial officer shall not exercise a power conferred by this section to enter and inspect land or premises without a warrant or court order except during daylight hours or at any other time during which work is being carried out on the land or at the premises. 2002, c. 4, s. 13 (3).

Exception

(4) Despite subsection (3), a provincial officer may exercise a power conferred by this section to enter and inspect land or premises without a warrant or court order if delay in exercising the power would result in,

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it;
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life; or
- (d) the disappearance or deterioration of evidence that the inspection could produce. 2002, c. 4, s. 13 (4).

Powers on inspection

(5) During an inspection made under subsection (1), a provincial officer may,

- (a) make necessary excavations;
- (b) require that any thing be operated, used or set in motion under conditions specified by the 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. 2002, c. 4, s. 13 (5).

Records

(6) A record made under clause (5) (f) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 2002, c. 4, s. 13 (6).

Removal of documents or data

(7) A provincial officer shall not remove documents or data under clause (5) (h) without giving a receipt for them and shall promptly return the documents or data to the person who produced them. 2002, c. 4, s. 13 (7).

Power to exclude persons

(8) A provincial officer who exercises the power set out in clause (5) (i) may exclude from the questioning any person except counsel for the individual being questioned. 2002, c. 4, s. 13 (8).

Inspection of vehicles and vessels

14 (1) In this section,

“vehicle” includes a trailer or other equipment attached to the vehicle. 2002, c. 4, s. 14 (1).

Requirement to stop

(2) For the purposes of the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop. 2002, c. 4, s. 14 (2).

Compliance

(3) On the provincial officer’s signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop. 2002, c. 4, s. 14 (3).

Signal to stop

(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. 2002, c. 4, s. 14 (4).

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. 2002, c. 4, s. 14 (5).

Inquiries and inspection

(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 licences, 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. 2002, c. 4, s. 14 (6).

Means of containment

(7) Based on the 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 officer reasonably believes is being used for the handling or transportation of a thing the handling or transportation of which is governed or regulated under this Act, the *Dangerous Goods Transportation Act*, the *Environmental Protection Act* or the *Transportation of Dangerous Goods Act, 1992* (Canada). 2002, c. 4, s. 14 (7); 2009, c. 19, s. 69 (2).

Opening

(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. 2002, c. 4, s. 14 (8).

Powers of inspection

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise any powers under subsection 13 (5) that are reasonably required for the administration of this Act or the regulations. 2002, c. 4, s. 14 (9).

Same

(10) Subsections 13 (6), (7) and (8) apply to the exercise of a power under subsection (9). 2002, c. 4, s. 14 (10).

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

2009, c. 19, s. 69 (2) - 1/01/2010

Power to administer other Acts

15 A provincial officer who exercises any power set out in section 13, 14 or 23 may, if the provincial officer is designated as such under the *Environmental Protection Act*, the *Ontario Water Resources Act*, 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 15, 15.1, 19, 20 or 20.1 of the *Ontario Water Resources Act*;
- (c) section 19, 19.1, 22, 23 or 23.1 of the *Pesticides Act*;
- (d) section 81, 82, 91, 92 or 93 of the *Safe Drinking Water Act, 2002*; or
- (e) section 15, 20 or 21 of the *Toxics Reduction Act, 2009*. 2009, c. 19, s. 69 (3).

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

2009, c. 19, s. 69 (3) - 1/01/2010; 2009, c. 19, s. 69 (4) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

Order for entry or inspection

16 (1) A justice may issue an order authorizing a provincial officer to do anything described in subsection 13 (1) or (5) or 14 (2), (6), (7), (8) or (9) if the justice is satisfied, on evidence under oath by a provincial officer, that there are reasonable grounds to believe that it is appropriate for the administration of this Act or the regulations for the officer to do anything described in subsection 13 (1) or (5) or 14 (2), (6), (7), (8) or (9) and that the 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 described in subsection 13 (1) or (5) or 14 (2), (6), (7), (8) or (9);

- (c) there are reasonable grounds to believe that a person may prevent a provincial officer from doing anything described in subsection 13 (1) or (5) or 14 (2), (6), (7), (8) or (9);
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the officer to obtain an order under this section without delay if access is denied; or
- (e) there are reasonable grounds to believe that an attempt by the officer to do anything described in subsection 13 (1) or (5) or 14 (2), (6), (7), (8) or (9) without the order might not achieve the purpose of the thing or might endanger human health or safety, property or the natural environment. 2002, c. 4, s. 16 (1).

Same

(2) Subsections 13 (6), (7) and (8) apply to an inspection under an order under this section. 2002, c. 4, s. 16 (2).

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. 2002, c. 4, s. 16 (3).

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. 2002, c. 4, s. 16 (4).

Time of execution

(5) An order under this section shall be carried out between 6 a.m. and 9 p.m., unless the order otherwise authorizes. 2002, c. 4, s. 16 (5).

Application without notice

(6) An order under this section may be issued or renewed on application without notice. 2002, c. 4, s. 16 (6).

Condition to permit inspections

17 It is a condition of every licence or approval that the holder must forthwith on request permit provincial officers to carry out inspections authorized by the following provisions of any place, other than any room actually used as a dwelling, to which the licence or approval relates:

1. Section 13, 14 or 16 of this Act.
2. Section 156, 156.1 or 158 of the *Environmental Protection Act*.
3. Section 15, 15.1 or 17 of the *Ontario Water Resources Act*.
4. Section 19, 19.1 or 20 of the *Pesticides Act*.
5. Section 81, 82 or 89 of the *Safe Drinking Water Act, 2002*.
6. Section 15 or 18 of the *Toxics Reduction Act, 2009*. 2009, c. 19, s. 69 (5).

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

2009, c. 19, s. 69 (5) - 1/01/2010; 2009, c. 19, s. 69 (6) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

Order to prohibit entry

18 (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 13, 14 or 16.
2. During the time required for the officer to obtain an order under section 16 of this Act or a warrant under section 158 of the *Provincial Offences Act*.
3. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*. 2002, c. 4, s. 18 (1).

Requirements for order

- (2) A provincial officer shall not issue an order under subsection (1) unless the 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 materials containing nutrients into the natural environment from the land, place or thing and an adverse effect described in subsection (3) has resulted or is likely to result from the discharge. 2002, c. 4, s. 18 (2).

Effect

(3) The adverse effect mentioned in clause (2) (c) is an effect that is one or more of the following:

1. Impairment of the quality of the natural environment for any use that can be made of it.
2. Injury or damage to property or to plant or animal life.
3. Harm or material discomfort to any person.
4. An adverse effect on the health of any person.
5. Impairment of the safety of any person.
6. Rendering any property or plant or animal life unfit for human use.
7. Interference with the normal conduct of business. 2002, c. 4, s. 18 (3).

Notice of order

(4) The provincial officer shall give notice of the order in the manner that the officer considers appropriate in the circumstances. 2002, c. 4, s. 18 (4).

Contents of notice

(5) Notice of the order shall include an explanation of the rights provided by subsections (7) and (8). 2002, c. 4, s. 18 (5).

Order not effective where no notice

(6) An order described in subsection (1) is not effective in any court proceeding against a person if the person satisfies the court that the person neither knew nor should have known of the order. 2002, c. 4, s. 18 (6).

Request for rescission

(7) 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. 2002, c. 4, s. 18 (7).

Powers of Director

(8) The Director shall give prompt consideration to a request or submissions made under subsection (7) and may rescind the order. 2002, c. 4, s. 18 (8).

Same

(9) For the purposes of subsection (8), the Director may substitute the Director's own opinion for that of the provincial officer. 2002, c. 4, s. 18 (9).

Rescission of order

(10) A Director who rescinds an order under subsection (8) shall give those directions to a provincial officer that the Director considers appropriate to bring the rescission to the attention of persons affected. 2002, c. 4, s. 18 (10).

No stay

(11) A request for rescission of an order described in subsection (1) does not stay the order, unless the Director orders otherwise in writing. 2002, c. 4, s. 18 (11).

Duration of order

(12) An order described in subsection (1) shall be effective,

- (a) subject to clause (b), for the shorter of the length of time necessary to complete the inspection or search mentioned in that subsection or a period not exceeding two days excluding holidays; or
- (b) where the inspection or search mentioned in subsection (1) is under an order under section 16 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, until the expiration of that time. 2002, c. 4, s. 18 (12).

Order of justice

19 (1) If a justice is satisfied, on evidence under oath by a provincial officer, that there are reasonable grounds 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. 2002, c. 4, s. 19 (1).

Duration of prohibition

(2) The prohibition under the justice's order shall, subject to subsection (3), be for the period of time set out in the order. 2002, c. 4, s. 19 (2).

Expiry

(3) Unless renewed, an order made 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. 2002, c. 4, s. 19 (3).

Renewal

(4) An order made 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. 2002, c. 4, s. 19 (4).

Application for initial order

(5) An initial order made under subsection (1) may be issued on application without notice. 2002, c. 4, s. 19 (5).

Application for renewal order

(6) A renewal order made under subsection (4) may be issued on application made with the notice, if any, that is specified for the purpose under subsection (7). 2002, c. 4, s. 19 (6).

Requirements for renewal

(7) In an order made 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. 2002, c. 4, s. 19 (7).

Notice of order

(8) A provincial officer may give notice of an order made under subsection (1) or (4) in the manner that the officer considers appropriate in the circumstances. 2002, c. 4, s. 19 (8).

Order ineffective

(9) An order made under subsection (1) or (4) is not effective in any court proceeding against a person if the person satisfies the court that the person neither knew nor should have known of the order. 2002, c. 4, s. 19 (9).

Securing of place or thing

20 If an order made under section 18 or 19 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 other means that the 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. 2002, c. 4, s. 20.

Use of force

21 A provincial officer may use the force that is reasonably necessary,

- (a) to carry out a court order issued under this Part;
- (b) to execute a warrant issued under the *Provincial Offences Act*; or
- (c) to prevent the destruction of any thing that the officer reasonably believes may afford evidence of an offence under this Act. 2002, c. 4, s. 21.

Samples and copies

22 A provincial officer may detain samples and copies obtained under section 13, 14 or 16 for any period and for any of the purposes of this Act and the regulations. 2002, c. 4, s. 22.

Seizure during inspection

23 (1) During an inspection under section 13, 14 or 16, a provincial officer may, without a warrant or court order, seize any thing that is produced to the officer or that is in plain view, if,

- (a) the officer reasonably believes that the thing will afford evidence of an offence under this Act; or

- (b) the 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. 2002, c. 4, s. 23 (1).

Report to justice

- (2) A provincial officer who seizes any thing during an inspection under section 13, 14 or 16 shall bring the thing seized before a justice or, if that is not reasonably possible, shall report the seizure to a justice. 2002, c. 4, s. 23 (2).

Application of *Provincial Offences Act*

- (3) 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 under section 13, 14 or 16. 2002, c. 4, s. 23 (3).

Disposition of certain things

- 24** (1) If the Director believes that, given the nature of a thing seized during an inspection under section 13, 14 or 16, 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. 2002, c. 4, s. 24 (1).

Perishables

- (2) If the person having custody of any thing seized during an inspection under section 13, 14 or 16 believes that the thing will rot, spoil or otherwise perish, the person may dispose of the thing. 2002, c. 4, s. 24 (2).

Non-application of provisions

- (3) Subsections 23 (2) and (3) do not apply to a thing disposed of in accordance with this section. 2002, c. 4, s. 24 (3).

Forfeiture

- (4) A thing disposed of in accordance with this section is forfeited to the Crown. 2002, c. 4, s. 24 (4).

Notice of disposal

- (5) If a thing has been disposed of in accordance with subsections (1) to (4), 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 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 officer knows or has reason to believe is the owner. 2002, c. 4, s. 24 (5).

Contents of notice

- (6) The notice 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 the officer's 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. 2002, c. 4, s. 24 (6).

Order for tracking

- 25** (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 any thing. 2002, c. 4, s. 25 (1).

Issuance of order

- (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,

- (a) an offence against this Act has been or will be committed; and
- (b) information concerning the offence will be obtained through the use of the device, technique or procedure or the doing of the thing. 2002, c. 4, s. 25 (2).

Limitation

(3) An order under this section shall not authorize the interception of any private communication. 2002, c. 4, s. 25 (3).

Same

(4) No device, technique or procedure shall be used to intercept any private communication under an order issued under this section. 2002, c. 4, s. 25 (4).

Conditions of order

(5) An order issued under this section shall contain the conditions that the justice considers advisable in the circumstances. 2002, c. 4, s. 25 (5).

Activities under order

- (6) An order issued under this section may authorize a provincial officer to,
- (a) place, install, maintain or remove a device in or on any land, place or thing; and
 - (b) monitor, or have monitored, a device or information from a device placed or installed in or on any land, place or thing. 2002, c. 4, s. 25 (6).

Duration of order

(7) An order issued under this section is valid for a period of 60 days or for whatever shorter period is specified in the order. 2002, c. 4, s. 25 (7).

Further orders

(8) A justice may issue further orders under subsection (2). 2002, c. 4, s. 25 (8).

Police assistance

26 (1) Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of any thing, the officer may,

- (a) take those steps and employ the assistance that is necessary to accomplish what is required; and
- (b) when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police or the municipal police force in the area where the assistance is required. 2002, c. 4, s. 26 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 26 (1) (b) of the Act is amended by striking out “municipal police force” and substituting “police service”. (See: 2019, c. 1, Sched. 4, s. 38 (1))

Same

(2) It is the duty of every member of a police force called to render assistance under clause (1) (b) to render the assistance. 2002, c. 4, s. 26 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 26 (2) of the Act is amended by striking out “police force” and substituting “police service”. (See: 2019, c. 1, Sched. 4, s. 38 (2))

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

2018, c. 3, Sched. 5, s. 40 (1, 2) - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 38 (1, 2) - not in force

Restoration of excavation

27 A provincial officer who makes or causes the making of an excavation in the course of performing 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. 2002, c. 4, s. 27.

Matters confidential

28 (1) Except as to information in respect of the discharge of materials containing nutrients into the natural environment, every provincial officer shall preserve secrecy in respect of all matters that come to the officer’s knowledge in the course of any inspection under this Act or the regulations and shall not communicate the matters to any person except,

- (a) as may be required in connection with the administration of,
 - (i) this Act or a prescribed Act,
 - (ii) the regulations made under this Act or a prescribed Act, or
 - (iii) any proceeding under an Act mentioned in subclause (i) or the regulations made under that Act;
- (a.1) as authorized under the *Regulatory Modernization Act, 2007*;
- (b) to the officer's counsel; or
- (c) with the consent of the person to whom the information relates. 2002, c. 4, s. 28 (1); 2007, c. 4, s. 37; 2009, c. 19, s. 69 (7).

Testimony in civil suit

(2) Except in a proceeding described in subclause (1) (a) (iii), no provincial officer shall be required to give testimony, other than testimony in respect of the discharge of materials containing nutrients into the natural environment, in any civil suit or proceeding with regard to information obtained by the officer in the course of the administration of this Act or the regulations. 2002, c. 4, s. 28 (2); 2009, c. 19, s. 69 (7).

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

2007, c. 4, s. 37 - 17/01/2008

2009, c. 19, s. 69 (7) - 1/01/2010

Power to require response to inquiries

28.1 (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. 2017, c. 2, Sched. 11, s. 3 (1).

Same

(2) For the purposes of subsection (1), a provincial officer may make inquiries by telephone or by any other means of communication. 2017, c. 2, Sched. 11, s. 3 (1).

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. 3 (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. 3 (1).

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

2017, c. 2, Sched. 11, s. 3 (1) - 22/03/2017

ORDERS

Order for preventive measures

29 (1) A provincial officer or Director may issue an order to any of the following persons if the officer or Director, as the case may be, has reasonable grounds to believe that an adverse effect described in subsection 18 (3) will result or is likely to result if materials containing nutrients are discharged into the natural environment, other than the air, from anything undertaken on, in or from lands, premises, vehicles or vessels:

1. A person who owns or who has management or control of lands or premises that the provincial officer may enter under section 13 or 16.
2. A person who operates a vehicle or vessel that the provincial officer may signal to stop or that is required to report under section 14. 2017, c. 2, Sched. 11, s. 3 (2).

Information 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) specify that the person to whom the order is directed has the right to request,
 - (i) a review of the order by a Director in accordance with section 32, if the order is made by the provincial officer, or
 - (ii) a hearing by the Tribunal in accordance with section 9, if the order is made or deemed to be made by a Director. 2002, c. 4, s. 29 (2).

Contents of order

- (3) The order may require the person to whom it is directed to,
 - (a) take, within the time specified, whatever steps are specified in it to prevent, decrease or eliminate an adverse effect described in subsection 18 (3) that will result or is likely to result from the discharge of materials containing nutrients into the natural environment, other than the air, from anything undertaken on, in or from lands, premises, vehicles or vessels; and
 - (b) report on the steps mentioned in clause (a), within the time specified, to the provincial officer or Director who issued the order. 2002, c. 4, s. 29 (3); 2009, c. 33, Sched. 15, s. 7 (5); 2017, c. 2, Sched. 11, s. 3 (3).

Compliance

- (4) A person who is served with an order made under subsection (1) shall comply with the order within the period of time specified in the order. 2002, c. 4, s. 29 (4).

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

2009, c. 33, Sched. 15, s. 7 (4, 5) - 15/12/2009

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

Compliance order

30 (1) A provincial officer or Director who has reasonable grounds to believe that a person has contravened a provision of this Act or the regulations or a condition of a certificate, licence or approval may make an order directing the person to comply with the Act, regulations, certificate, licence or approval, as the case may be, immediately or within the time specified in the order. 2002, c. 4, s. 30 (1).

Contents of order

- (2) The order shall,
 - (a) specify the provisions of this Act or the regulations or the conditions of a certificate, licence or approval that the provincial officer believes the person to have contravened;
 - (b) briefly describe the nature and, where applicable, the location of the contravention;
 - (c) describe the action that is required to correct the contravention and the time within which the person is required to ensure that the action is taken; and
 - (d) specify that the person has the right to request,
 - (i) a review of the order by a Director in accordance with section 32, if the order is made by the provincial officer, or
 - (ii) a hearing by the Tribunal in accordance with section 9, if the order is made or deemed to be made by a Director. 2002, c. 4, s. 30 (2).

Service

- (3) The provincial officer or Director who makes the order shall have it served on the person. 2002, c. 4, s. 30 (3).

Compliance

- (4) A person who is served with an order made under subsection (1) shall comply with the order within the period of time specified in the order. 2002, c. 4, s. 30 (4).

Amendment or revocation of order

31 (1) If a provincial officer makes an order under subsection 29 (1) or 30 (1), the officer or a Director may, by order, amend or revoke it. 2002, c. 4, s. 31 (1).

Notice

- (2) Upon amending or revoking an order under subsection (1), the provincial officer or Director shall give written notice of the amendment or revocation to the person to whom the order is directed. 2002, c. 4, s. 31 (2).

Review of order

32 (1) A person to whom an order made by a provincial officer under subsection 29 (1) or 30 (1) is directed may, within seven days after being served with a copy of the order, request that a Director review the order. 2002, c. 4, s. 32 (1).

Form of 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. 2002, c. 4, s. 32 (2).

Contents of request

(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 person is requesting the review;
- (b) any submissions that the person 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 whatever other means of service that the regulations specify. 2002, c. 4, s. 32 (3).

No automatic stay

(4) The request for review does not stay the order, unless the Director orders otherwise in writing. 2002, c. 4, s. 32 (4).

Decision of Director

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

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person requesting the review, confirm or alter the order of the provincial officer. 2002, c. 4, s. 32 (5).

Same

(6) For the purposes of subsection (5), the Director may substitute the Director's own opinion for that of the provincial officer. 2002, c. 4, s. 32 (6).

Notice of decision

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

- (a) the decision, if the Director decides to revoke the order of the provincial officer; or
- (b) the Director's order and reasons for it, if the Director confirms or alters the order of the provincial officer. 2002, c. 4, s. 32 (7).

Deemed 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 in accordance with subsection (1) or (2), 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 Director shall be deemed to have made an order confirming the order of the provincial officer. 2002, c. 4, s. 32 (8).

Notice

(9) For the purpose of an appeal to the Tribunal, a confirming order that subsection (8) deems the Director to have made, shall be deemed,

- (a) to be directed to each person to whom the order of the provincial officer was directed; and
- (b) to have been served, on each person to whom the order of the provincial officer was directed, at the expiry of the time period mentioned in subsection (8). 2002, c. 4, s. 32 (9).

PART V REMEDIAL WORK DONE BY MINISTRY

Minister's action

33 If an order or decision made under section 29, 30, 31 or 32 is stayed, the Minister may cause to be done any thing required by the order or decision. 2002, c. 4, s. 33.

Director's order

34 (1) If an order or decision made under section 29, 30, 31 or 32 is not stayed, a 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. 2002, c. 4, s. 34 (1).

Notice

(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, except if the identity of the person cannot be ascertained. 2002, c. 4, s. 34 (2).

Reaction to notice

(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. 2002, c. 4, s. 34 (3).

Entry

35 (1) A person who is responsible for doing a thing under section 34 may, for the purpose, enter onto any land or into any place where the thing is to be done and any adjacent land or place without an order if,

- (a) the entry is made with the consent of an occupier or owner of the land or place; or
- (b) the delay necessary to obtain an order under subsection (2) would result in,
 - (i) danger to the health or safety of any person,
 - (ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it, or
 - (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2002, c. 4, s. 35 (1).

Order authorizing entry

(2) A justice, who is satisfied on evidence under oath that there are reasonable grounds to believe that entry onto land or into a place is necessary for the purpose of doing a thing under section 34, may make an order authorizing the person named in the order to make the entry and do the thing. 2002, c. 4, s. 35 (2).

Execution and expiry of order

- (3) An order made under subsection (2) shall,
- (a) specify the times, which may be 24 hours each day, during which the order may be carried out; and
 - (b) state when the order expires. 2002, c. 4, s. 35 (3).

Renewal

(4) Before or after the order expires, a justice may renew the order, for the additional periods that the justice considers necessary. 2002, c. 4, s. 35 (4).

Police assistance

- (5) A person authorized under clause (1) (b) or subsection (2) to enter land or a place for the purpose of doing a thing may,
- (a) take those steps and employ the assistance that is necessary to accomplish the thing; and
 - (b) when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police or the municipal police force in the area where the assistance is required. 2002, c. 4, s. 35 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 35 (5) (b) of the Act is amended by striking out "municipal police force" and substituting "police service". (See: 2019, c. 1, Sched. 4, s. 38 (3))

Assistance

(6) A person named in an order issued under subsection (2) may call on any other persons he or she considers advisable to execute the order. 2002, c. 4, s. 35 (6).

Application without notice

(7) A justice may receive and consider an application for an order or renewal of an order under this section without notice to the owner or occupier of the land or place. 2002, c. 4, s. 35 (7).

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. 2002, c. 4, s. 35 (8).

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

2018, c. 3, Sched. 5, s. 40 (3) - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 38 (3) - not in force

Order to pay costs

36 (1) If a person is required to do any thing by an order or decision made under this Act and the Director causes the thing to be done under section 34, the Director may make an order requiring the person, and any other person whom the Director determines is appropriate, to pay the costs of having the thing done. 2002, c. 4, s. 36 (1).

Contents of order

(2) The order to pay costs shall include,

- (a) a description of things that the Director caused to be done under this Act;
- (b) a brief statement of the circumstances giving rise to the Director's decision to cause the things to be done;
- (c) a detailed account of the costs incurred in doing the things; and
- (d) a direction that the person to whom the order is issued pay the costs to the Minister of Finance. 2002, c. 4, s. 36 (2).

Increase in cost

(3) 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. 2002, c. 4, s. 36 (3).

Enforcement of order

37 (1) An order to pay costs may be filed with a local registrar of the Superior Court of Justice and enforced as if it were an order of the court. 2002, c. 4, s. 37 (1).

Interest

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the Superior Court of Justice under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. 2002, c. 4, s. 37 (2).

Lien on real property

38 (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. 2002, c. 4, s. 38 (1).

Costs collected as taxes

(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; 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. 2002, c. 4, s. 38 (2).

Same

(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 379 (7) (b) of the *Municipal Act, 2001* or clause 350 (7) (b) of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 4, s. 38 (3); 2002, c. 17, Sched. C, s. 17 (1); 2006, c. 32, Sched. C, s. 39 (1).

Remittance

(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. 2002, c. 4, s. 38 (4).

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. 39 (2).

Proceeds of tax sale

(6) Where there is a sale of land under Part XI of the *Municipal Act, 2001* or a predecessor of that Part or under Part XIV of the *City of Toronto Act, 2006*, as the case may be, and amounts are payable out of the proceeds to the Minister of Finance under this Act, the *Environmental Protection Act*, the *Fire Protection and Prevention Act, 1997* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. 2002, c. 4, s. 38 (6); 2002, c. 17, Sched. C, s. 17 (3); 2006, c. 32, Sched. C, s. 39 (3).

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*, the *Fire Protection and Prevention Act, 1997* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 39 (4).

Territory without municipal organization

(8) If an order to pay costs is directed to a person who owns real property in territory without municipal organization and if the Director gives written notice to the Minister of Finance of the amounts specified in that order that relate to things done in connection with the property, 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. 23 (1).

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 property. 2006, c. 33, Sched. Z.3, s. 23 (1).

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

2002, c. 17, Sched. C, s. 17 (1-4) - 01/07/2003

2006, c. 32, Sched. C, s. 39 (1-4) - 1/01/2007

2006, c. 33, Sched. Z.3, s. 23 (1) - 1/01/2009

Where lands not owned by farmer

39 (1) If an order to pay costs is directed to a farmer in respect of work carried out under section 34 on lands or premises that are not owned by the farmer but are used by the farmer as part of an agricultural operation and pursuant to a nutrient management plan, and if the farmer owns land elsewhere in Ontario, the Director who caused the work to be carried out under that section may,

- (a) in the case of land owned by the farmer in a municipality, instruct the clerk of the municipality to recover the amount of the costs as taxes against the land; or
- (b) in the case of land owned by the farmer in territory without municipal organization, give written notice to the Minister of Finance of the amount of the costs, requesting the collection of the amount under the *Provincial Land Tax Act, 2006*. 2002, c. 4, s. 39 (1); 2006, c. 33, Sched. Z.3, s. 23 (2).

Municipal taxes

(2) Subsections 38 (2) to (7) and (9) apply with necessary modifications to the recovery of municipal taxes under clause (1) (a). 2002, c. 4, s. 39 (2).

Provincial land taxes

(3) If the Director gives written notice under clause (1) (b) to the Minister of Finance, the amount may be collected under the *Provincial Land Tax Act, 2006* as if it was tax imposed under that Act. 2006, c. 33, Sched. Z.3, s. 23 (3).

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

2006, c. 33, Sched. Z.3, s. 23 (2, 3) - 1/01/2009

**PART VI
ENFORCEMENT**

Administrative penalties

40 (1) The purpose of an administrative penalty issued under this Act is,

- (a) to ensure compliance with this Act; and
- (b) to prevent a person or entity from deriving, directly or indirectly, any economic benefit as a result of non-compliance with this Act. 2019, c. 14, Sched. 8, s. 28.

Order by Director, Provincial Officer

(2) If the Director or, in the circumstances prescribed by the regulations, a provincial officer, is of the opinion that a person has committed a contravention prescribed by the regulations, the Director or provincial officer, as the case may be, may issue an order requiring the person to pay an administrative penalty in respect of the contravention. 2019, c. 14, Sched. 8, s. 28.

Prescribed contraventions

(3) For the purposes of subsection (2), a prescribed contravention may be in respect of,

- (a) a provision of this Act or the regulations;
- (b) a provision of an order under this Act; or
- (c) a term or condition of a certificate, licence, or approval under this Act. 2019, c. 14, Sched. 8, s. 28.

Limitation

(4) An order mentioned in subsection (2) shall be served not later than one year after the day on which evidence of the contravention first came to the attention of a provincial officer or the Director. 2019, c. 14, Sched. 8, s. 28.

Orders, corporations

(5) If the person who has contravened a provision or a condition referred to in subsection (3) is a corporation, the order shall not be issued to an employee, officer, director or agent of the corporation unless the circumstances prescribed by the regulations, if any, exist. 2019, c. 14, Sched. 8, s. 28.

Amount of penalty

(6) The amount of the administrative penalty shall be determined by the Director or the provincial officer, as the case may be, in accordance with the regulations. 2019, c. 14, Sched. 8, s. 28.

Total penalty

(7) Subject to subsection (8), the total amount of the administrative penalty shall not exceed \$10,000 for each contravention. 2019, c. 14, Sched. 8, s. 28.

Same, monetary benefit

(8) The total amount of the administrative penalty referred to in subsection (7) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the same contravention. 2019, c. 14, Sched. 8, s. 28.

Contents of order

(9) An order mentioned in subsection (2) shall be served on the person who is required to pay the administrative penalty and shall,

- (a) contain a description of the contravention to which the order relates, including, if appropriate, the date of the contravention;
- (b) specify the amount of the penalty;
- (c) give particulars respecting the time for paying the penalty and the manner of payment; and
- (d) provide information to the person as to the person's right to require,
 - (i) a hearing under section 9, if the order is issued by the Director, or

(ii) a review under section 40.1, if the order is issued by a provincial officer. 2019, c. 14, Sched. 8, s. 28.

Absolute liability

- (10) A requirement that a person pay an administrative penalty applies even if,
- (a) the person took all reasonable steps to prevent the contravention; or
 - (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent. 2019, c. 14, Sched. 8, s. 28.

Payment prevents conviction

(11) A person who pays an administrative penalty in respect of a contravention prescribed by the regulations for the purposes of this subsection shall not be convicted of an offence under this Act in respect of the same contravention. 2019, c. 14, Sched. 8, s. 28.

Contraventions where conviction not prevented

(12) With respect to a contravention, other than a contravention to which subsection (11) applies, a person may be charged, prosecuted and convicted of an offence under this Act in respect of that contravention, regardless of whether the person has paid an administrative penalty in respect of and has remedied that contravention and, for greater certainty, nothing in subsection (10) affects the prosecution of the offence. 2019, c. 14, Sched. 8, s. 28.

No admission

(13) If a person pays an administrative penalty in respect of a contravention, the payment is not, for the purposes of any prosecution in respect of the contravention, an admission that the person committed the contravention. 2019, c. 14, Sched. 8, s. 28.

Regulations

- (14) The Lieutenant Governor in Council may make regulations,
- (a) specifying the form and content of orders under this section;
 - (b) prescribing circumstances in which a provincial officer is authorized or prohibited from issuing an order under subsection (2);
 - (c) governing the determination of the amounts of administrative penalties, for individuals and for corporations, including providing the maximum amount the Director or a provincial officer, as the case may be, may determine under subsection (6);
 - (d) prescribing circumstances in which a person is not required to pay an administrative penalty;
 - (e) prescribing procedures related to administrative penalties;
 - (f) governing the payment of interest and late payment penalties, including prescribing how the amounts of interest and late payment penalties are determined;
 - (g) respecting any matter necessary for the administration of the system of administrative penalties. 2019, c. 14, Sched. 8, s. 28.

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

2019, c. 14, Sched. 8, s. 28 - 10/12/2019

Review of administrative penalty imposed by provincial officer

40.1 (1) A person who is required by an order issued by a provincial officer to pay an administrative penalty may, within seven days after being served with the order, request that the Director review the order. 2019, c. 14, Sched. 8, s. 28.

Request for review

- (2) A request for a review shall be made in writing and shall include,
- (a) a statement of whether the review applies to the liability to pay the penalty, the amount of the penalty or both;
 - (b) any submissions that the person requesting the review wishes the Director to consider; and
 - (c) for the purposes of subsection (7), an address for service by mail, fax or such other means of service as the regulations may prescribe. 2019, c. 14, Sched. 8, s. 28.

Stay

(3) If a person requests a review, the requirement to pay the administrative penalty is stayed until the disposition of the matter. 2019, c. 14, Sched. 8, s. 28.

Decision of Director

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

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person who requested the review, confirm or alter the order of the provincial officer. 2019, c. 14, Sched. 8, s. 28.

Same

(5) For the purposes of subsection (4), the Director may substitute his or her opinion for that of the provincial officer. 2019, c. 14, Sched. 8, s. 28.

Amount of penalty

(6) For greater certainty, if the review applies to the amount of the penalty, the regulations made under clause 40 (14) (c) apply for the purposes of the review. 2019, c. 14, Sched. 8, s. 28.

Notice of decision

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

- (a) the Director's decision or order under subsection (4); and
- (b) if the Director issues an order under clause (4) (b), the reasons for the order. 2019, c. 14, Sched. 8, s. 28.

Automatic confirmation of order

(8) If the Director does not comply with subsection (7) within seven days after receiving a request for a review, the order in respect of which the review was requested shall be deemed to have been confirmed by order of the Director. 2019, c. 14, Sched. 8, s. 28.

Same

(9) For the purposes of section 9, a deemed confirmation by order of the Director under subsection (8) shall be,

- (a) deemed to be directed to the person to whom the order of the provincial officer was directed; and
- (b) deemed to have been served on the person mentioned in clause (a) on the last day of the time period mentioned in subsection (8). 2019, c. 14, Sched. 8, s. 28.

Exception

(10) Subsections (8) and (9) do not apply if, within seven days after receiving the request for a review, the Director gives written notice to the person requesting the review stating that the Director requires additional time to make a decision. 2019, c. 14, Sched. 8, s. 28.

Regulations

(11) The Lieutenant Governor in Council may make regulations specifying the form and content of orders under this section. 2019, c. 14, Sched. 8, s. 28.

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

2019, c. 14, Sched. 8, s. 28 - 10/12/2019

Failure to pay administrative penalty when required

40.2 If a person who is required to pay an administrative penalty fails to comply with the requirement,

- (a) the order that requires payment may be filed with a local registrar of the Superior Court of Justice and the order may be enforced as if it were an order of the court;
- (b) the Director may, by order, suspend any certificate, licence or approval issued to the person under this Act until the administrative penalty is paid; and
- (c) the Director may refuse to issue any certificate, licence or approval to the person or refuse to renew any certificate, licence or approval issued to the person under this Act until the administrative penalty is paid. 2019, c. 14, Sched. 8, s. 28.

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

2019, c. 14, Sched. 8, s. 28 - 10/12/2019

Special purpose account

40.3 Administrative penalties paid under this Act shall be deposited in the account referred to in section 182.2 of the *Environmental Protection Act*. 2019, c. 14, Sched. 8, s. 28.

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

2019, c. 14, Sched. 8, s. 28 - 10/12/2019

Order to restrain

41 (1) If a person contravenes this Act or the regulations, fails to comply with an order under this Act, other than an order under section 36 or fails to comply with a condition of a certificate, licence or approval, the Minister may, in addition to any other remedy and to any penalty imposed by law, apply to the Superior Court of Justice for an order restraining the person from continuing the contravention or failure. 2002, c. 4, s. 41 (1).

Court order

(2) If a court convicts a person of an offence under this Act, it may, on its own initiative or on application by counsel for the prosecutor, in addition to any other remedy and to any other penalty imposed by law, make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. 2002, c. 4, s. 41 (2).

No obstruction

42 (1) No person shall hinder or obstruct a Director, a provincial officer or any employee in or agent of the Ministry or any person involved in carrying out a program of the Ministry in the performance of duties under this Act. 2002, c. 4, s. 42 (1); 2006, c. 35, Sched. C, s. 92 (4).

Providing information

(2) No person shall refuse to provide a Director, a provincial officer, the Minister, the Ministry or any employee in or agent of the Ministry with all information, documents or data that the person is authorized to examine under this Act and the regulations. 2002, c. 4, s. 42 (2); 2006, c. 35, Sched. C, s. 92 (5).

False information

(3) No person shall include false or misleading information in any document or data that a Director, a provincial officer, the Minister, the Ministry or any employee in or agent of the Ministry is authorized to examine under this Act and the regulations. 2002, c. 4, s. 42 (3); 2006, c. 35, Sched. C, s. 92 (6).

Same

(4) No person shall orally, in writing or electronically give or submit false or misleading information in any statement, document or data to a Director, a provincial officer, the Minister, the Ministry, any employee in or agent of the Ministry or any person involved in carrying out a program of the Ministry in respect of any matter related to this Act or the regulations. 2002, c. 4, s. 42 (4); 2006, c. 35, Sched. C, s. 92 (7).

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

2006, c. 35, Sched. C, s. 92 (4-7) - 20/08/2007

Offences

43 (1) A person is guilty of an offence if the person,

- (a) contravenes this Act or the regulations;
- (b) fails to comply with the conditions of a certificate, licence or approval; or
- (c) fails to comply with an order made by a Director or a provincial officer under this Act other than an order in respect of an administrative penalty or an order to pay costs under section 36. 2002, c. 4, s. 43 (1); 2019, c. 14, Sched. 8, s. 29.

Directors and officers

(2) Every director or officer of a corporation who knowingly concurs in the commission of an offence by the corporation is guilty of an offence. 2002, c. 4, s. 43 (2).

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

2019, c. 14, Sched. 8, s. 29 - 10/12/2019

Limitation period

44 No proceeding for an offence under this Act or the regulations shall be commenced more than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day evidence of the offence first came to the attention of a provincial officer. 2002, c. 4, s. 44.

Service of offence notice

45 (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 corporation or to the clerk of the corporation. 2002, c. 4, s. 45 (1).

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. 2002, c. 4, s. 45 (2).

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. 2002, c. 4, s. 45 (3).

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. 2002, c. 4, s. 45 (4).

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, as the case may be. 2002, c. 4, s. 45 (5).

Service for motor vehicles

46 (1) In this section,

“commercial motor vehicle”, “farm tractor”, “motor vehicle” and “self-propelled implement of husbandry” have the same meanings as in the *Highway Traffic Act*; (“matériel agricole automateur”, “tracteur agricole”, “véhicule automobile”, “véhicule utilitaire”)

“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”) 2002, c. 4, s. 46 (1).

Employer

(2) Delivery of an offence notice or summons to the operator of a vehicle that is a motor vehicle, farm tractor or self-propelled implement of husbandry, 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. 2002, c. 4, s. 46 (2).

Owner or lessee

(3) Delivery of an offence notice or summons to the operator of a vehicle that is a commercial motor vehicle, farm tractor or self-propelled implement of husbandry, 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. 2002, c. 4, s. 46 (3).

Exception

(4) Subsection (3) 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. 2002, c. 4, s. 46 (4).

Permit holder as owner

(5) 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 motor vehicle mentioned in the permit if a number plate under that Part bearing a number that corresponds to

the permit was displayed on the vehicle or motor vehicle, as the case may be, at the time the offence was committed. 2002, c. 4, s. 46 (5).

Exception

(6) Subsection (5) 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. 2002, c. 4, s. 46 (6).

Presiding judge

47 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. 2002, c. 4, s. 47; 2006, c. 21, Sched. C, s. 122 (1).

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

2006, c. 21, Sched. C, s. 122 (1) - 1/05/2007

Penalties

48 (1) An individual convicted of an offence under this Act is liable to,

- (a) on a first conviction, a fine of not more than \$5,000 for each day or part of a day on which the offence occurs or continues;
- (b) on each subsequent conviction, a fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues. 2002, c. 4, s. 48 (1).

Corporation

(2) A corporation convicted of an offence under this Act is liable to,

- (a) on a first conviction, a fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues;
- (b) on each subsequent conviction, a fine of not more than \$25,000 for each day or part of a day on which the offence occurs or continues. 2002, c. 4, s. 48 (2).

Subsequent conviction

(3) For the purposes of determining the penalty to which a person is liable under subsection (1) or (2), a conviction of the person for an offence under this Act is a subsequent conviction if the person has previously been convicted of an offence under,

- (a) this Act;
- (b) the *Environmental Protection Act*, other than for an offence related to Part IX of that Act;
- (c) the *Ontario Water Resources Act*;
- (d) the *Pesticides Act*;
- (e) the *Safe Drinking Water Act, 2002*; or
- (f) the *Toxics Reduction Act, 2009*. 2002, c. 4, s. 48 (3); 2009, c. 19, s. 69 (8).

Monetary benefit

(4) A 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. 2002, c. 4, s. 48 (4).

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

2009, c. 19, s. 69 (8) - 1/01/2010

Suspension

49 (1) If a person is in default of payment of a fine imposed upon conviction for an offence against this Act, the *Environmental Protection Act*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002*, the *Toxics Reduction Act, 2009* or the regulations made under any of them, on the application of a Director, a justice of the peace may make an order under subsection 69 (2) of the *Provincial Offences Act* directing that, until the fine is paid,

- (a) one or more of the person's certificates, licences or approvals be suspended; and

(b) no certificate, licence or approval be issued to the person. 2002, c. 4, s. 49 (1); 2009, c. 19, s. 69 (9).

Suspension by Director

(2) On being informed of an outstanding order mentioned in subsection (1), the Director may suspend the person's certificate, licence or approval, if it is not already suspended under another order mentioned in that subsection. 2002, c. 4, s. 49 (2).

Reinstatement

(3) On being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the certificate, licence or approval are paid, the Director shall reinstate the certificate, licence or approval, as the case may be, unless the Director has been informed that,

(a) there is another outstanding order mentioned in subsection (1) directing that the certificate, licence or approval be suspended; or

(b) the certificate, licence or approval is suspended under any other order or under another Act. 2002, c. 4, s. 49 (3).

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

2009, c. 19, s. 69 (9) - 1/01/2010

Order to prevent damage

50 (1) On its own initiative or on the request of the prosecutor, a 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 the action, including but not limited to providing an alternate water supply, that 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; or

(b) to comply with any order that a Director has issued to the person in relation to damage that results from or is in any way connected to the commission of the offence. 2002, c. 4, s. 50 (1).

Other conditions

(2) An order described in subsection (1) may contain those other conditions that,

(a) relate to the circumstances of the offence and the circumstances of the person that contributed to the commission of the offence; and

(b) the court considers appropriate to prevent similar unlawful conduct or to contribute to the person's rehabilitation. 2002, c. 4, s. 50 (2).

Variation of order

(3) The court that made the order 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 if,

(a) on its own initiative, it holds a hearing or obtains the consent of the parties to dispense with a hearing; 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, it holds a hearing or the parties consent to dispense with a hearing. 2002, c. 4, s. 50 (3); 2006, c. 21, Sched. C, s. 122 (2).

Conflict

(4) Nothing in this section authorizes the court to make an order that conflicts with an order previously made under this Act by a Director or provincial officer, but the court may make an order under this section supplementing the provisions of an order of a Director or provincial officer. 2002, c. 4, s. 50 (4).

Continuation in force

(5) If a person bound by a court order made under this section 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. 2002, c. 4, s. 50 (5).

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

2006, c. 21, Sched. C, s. 122 (2) - 1/05/2007

Order for remedial work

51 On its own initiative or on the request of the prosecutor, a court that convicts a person of an offence under this Act may, in addition to, or in substitution in whole or in part for, any other penalty imposed by the court, order the person to carry out an alternative penalty such as,

- (a) performing remedial work on the environment; or
- (b) making payment to a third party for the purposes of educational or remedial work done by or for the third party. 2002, c. 4, s. 51.

PART VII GENERAL

Other Acts

52 This Act does not affect the application of the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Pesticides Act* in any situation where any of those Acts applies. 2002, c. 4, s. 52.

Effect of orders, etc.

53 (1) A certificate, licence, approval or order issued by a person or body authorized to do so 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 issued or directed, and on any other successor or assignee of the person to whom it was issued or directed. 2002, c. 4, s. 53 (1).

Limitation

(2) If, pursuant to subsection (1), an order is binding on an executor, administrator, administrator with the will annexed, guardian of property or attorney for property, their obligation to incur costs to comply with the order is limited to the value of the assets they hold or administer, less their reasonable costs of holding or administering the assets. 2002, c. 4, s. 53 (2).

Definition

(3) In this section,

“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. 2002, c. 4, s. 53 (3).

Receivers and trustees

(4) A certificate, licence, approval or order that is issued by a person or body authorized to do so under this Act and that relates to property is binding on a receiver or trustee that holds or administers the property. 2002, c. 4, s. 53 (4).

Limitation

(5) If, pursuant to subsection (4), an order is binding on a trustee, other than a trustee in bankruptcy, the trustee’s obligation to incur costs to comply with the order is limited to the value of the assets held or administered by the trustee, less the trustee’s reasonable costs of holding or administering the assets. 2002, c. 4, s. 53 (5).

Exception

(6) Subsection (4) does not apply to an order that is issued by a person or body authorized to do so under this Act and that relates to property held or administered by a receiver or trustee in bankruptcy if,

- (a) within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the order, the receiver or trustee in bankruptcy notifies a Director that they have abandoned, disposed of or otherwise released their interest in the property; or
- (b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified a Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2002, c. 4, s. 53 (6).

Extension of period

(7) A Director may extend the 10-day period for giving notice under clause (6) (a), before or after it expires, on the conditions that the Director considers appropriate. 2002, c. 4, s. 53 (7).

Form of notice

(8) Notice under clause (6) (a) or (b) must be given in the manner prescribed by the regulations. 2002, c. 4, s. 53 (8).

Service

54 (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 person's last known address; or
- (c) given or served in accordance with the prescribed manner. 2002, c. 4, s. 54 (1).

Service by mail

(2) If service is made by mail, it shall be deemed to have been made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the notice or order until a later date. 2002, c. 4, s. 54 (2).

Documents as evidence

55 (1) A document that is a certificate, licence or approval, an order issued under this Act or a record made under this Act and that purports to be signed by the Minister, a Director, a provincial officer 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 document without proof of the signature or position of the person appearing to have signed the document. 2002, c. 4, s. 55 (1).

Certificate of service

(1.1) A certificate purporting to be signed by the Minister, a Director, a provincial officer or an employee in the Ministry that certifies that a document referred to in subsection (1) was served on a person or entity shall be received in evidence in any proceeding as proof of service of that document on that person or entity, in the absence of evidence to the contrary, without proof of the signature or position of the person appearing to have signed the certificate. 2009, c. 33, Sched. 15, s. 7 (6).

Report of analyst

(2) A report 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 report without proof of the signature or position of the person appearing to have signed the report. 2002, c. 4, s. 55 (2).

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

2009, c. 33, Sched. 15, s. 7 (6) - 15/12/2009

Delegation of powers

56 (1) The Minister may enter into an agreement with an individual, partnership or corporation, delegating to the individual, partnership or corporation any of the powers and duties relating to,

- (a) the establishment, maintenance and operation of a registry described in clause 6 (2) (n);
- (b) the review of any nutrient management plans or nutrient management strategies;
- (c) the issuing, amending, suspending or revoking of certificates, licences and approvals; or
- (d) the doing of any other prescribed work, other than anything for the purposes of Part IV, V or VI. 2002, c. 4, s. 56 (1).

Definition

(2) In this section,

“delegation agreement” means an agreement described in subsection (1). 2002, c. 4, s. 56 (2).

Contents of agreement

(3) A delegation agreement shall contain any limitations, conditions and requirements applicable to the delegation and all other provisions that the Minister considers advisable in the public interest, including provisions,

- (a) requiring that the delegate comply with applicable Ministry standards and policies, including standards and policies relating to quality assurance and audits;
- (b) setting the financial terms of the delegation;
- (c) requiring the delegate to obtain and maintain specified kinds and amounts of insurance;

- (d) providing that the Minister may appoint persons to the board of directors of the delegate, if the delegate is a corporation without share capital;
- (e) authorizing the delegate to carry on other activities unrelated to the delegated powers and duties. 2002, c. 4, s. 56 (3).

Regulation

- (4) A delegation under a delegation agreement is not effective unless the Minister makes a regulation,
 - (a) prescribing the powers and duties that are to be delegated by the agreement; and
 - (b) specifying the individual, partnership or corporation to which the powers and duties are to be delegated. 2002, c. 4, s. 56 (4).

Revocation of delegation

- (5) The Minister may by regulation revoke a delegation in whole or in part if, in the opinion of the Minister,
 - (a) the delegate has contravened or failed to comply with this Act or the regulations;
 - (b) the delegate has contravened or failed to comply with the delegation agreement; or
 - (c) it is in the public interest to do so. 2002, c. 4, s. 56 (5).

Effect of regulation

- (6) The delegation is revoked by a regulation made under subsection (5) on the day specified in the regulation or, if no day is specified in the regulation, on the day the regulation comes into force. 2002, c. 4, s. 56 (6).

Notice

- (7) The Minister may give the delegate that notice of the Minister's intention to make a regulation under subsection (5) that the Minister considers reasonable in the circumstances. 2002, c. 4, s. 56 (7).

Other remedies

- (8) The power to revoke a delegation is in addition to, and does not bar or affect, the Minister's right to exercise any other remedy under the delegation agreement or at law. 2002, c. 4, s. 56 (8).

Obligations of delegate

- (9) The delegate shall exercise and perform the powers and duties delegated to the delegate in accordance with the law and, in particular, in accordance with this Act, the regulation prescribing the delegated powers and duties and the delegation agreement. 2002, c. 4, s. 56 (9).

Appointment of directors

- (10) If a delegation agreement with a corporation without share capital so provides, the Minister may appoint one or more persons to the board of directors of the delegate, as specified in the agreement, for the terms of office that the Minister considers appropriate. 2002, c. 4, s. 56 (10).

Remuneration and expenses

- (11) The remuneration and expenses of the directors appointed by the Minister shall be the responsibility of the delegate. 2002, c. 4, s. 56 (11).

Annual report

- (12) A delegate shall report annually to the Minister on its activities over the previous year with respect to the delegated powers and duties. 2002, c. 4, s. 56 (12).

Additional reports

- (13) A delegate shall provide the additional reports to the Minister that the delegation agreement requires or the Minister requests. 2002, c. 4, s. 56 (13).

Regulations

- (14) The Minister may make regulations,
 - (a) prescribing the powers and duties of the Minister that are to be delegated under a delegation agreement;
 - (b) specifying the individual, partnership, corporation or unincorporated association to whom the powers and duties are to be delegated;

- (c) respecting any matter that the Minister considers advisable to carry out effectively the intent and purpose of this section. 2002, c. 4, s. 56 (14).

Crown liability

57 (1) The following persons are not agents of the Crown for any purpose, despite the *Crown Agency Act*, and shall not hold themselves out as such:

1. Persons appointed under clause 6 (2) (h), (i) or (l) who are not public servants employed under Part III of the *Public Service of Ontario Act, 2006*.
2. Delegates under section 56. 2002, c. 4, s. 57 (1); 2006, c. 35, Sched C, s. 92 (8).

Same, delegation

- (2) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,
- (a) for any act done in the execution or intended execution of a power or duty by a person appointed under clause 6 (2) (h), (i) or (l) who is not a public servant employed under Part III of the *Public Service of Ontario Act, 2006*;
 - (b) for any tort committed by a person described in clause (a) or an employee or agent of the person in relation to a power or duty described in that clause;
 - (c) for any act done in the execution or intended execution of a power or duty delegated under section 56 or for an alleged neglect or default in the execution of a power or duty delegated under that section; or
 - (d) for any tort committed by a delegate under section 56 or an employee or agent of the delegate in relation to a power or duty delegated under that section. 2002, c. 4, s. 57 (2); 2006, c. 35, Sched C, s. 92 (9, 10).

Immunity

(3) No action or other proceeding shall be instituted against any of the following persons arising from any inaccuracy contained in a record that is filed in a registry described in clause 6 (2) (n):

1. The Crown.
2. The deputy minister of the Ministry.
3. A public servant employed under Part III of the *Public Service of Ontario Act, 2006*.
4. A person appointed under clause 6 (2) (h), (i) or (l) who is not a public servant employed under Part III of the *Public Service of Ontario Act, 2006*.
5. A person or body to whom powers and duties of the Minister are delegated under section 56.
6. An employee of a person or body referred to in paragraph 4 or 5. 2006, c. 35, Sched. C, s. 92 (11).

Same, exempting regulation

(4) No action or other proceeding shall be brought against the Crown, the Minister or an employee or agent of the Crown because of anything arising out of or in relation to a matter carried on or purported to be carried on pursuant to a regulation that exempts a person from the requirement to obtain a certificate, licence or approval. 2002, c. 4, s. 57 (4).

Protection from personal liability

(5) 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. A member of a committee described in clause 6 (2) (z.2).
2. An employee in the Ministry.
3. A Director or provincial officer.
4. A public servant employed under Part III of the *Public Service of Ontario Act, 2006* who is acting under the direction of a person described in paragraph 2 or 3. 2006, c. 35, Sched. C, s. 92 (12); 2009, c. 33, Sched. 2, s. 49.

Exception

(5.1) Subsection (5) 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 (5) in any Act or in a regulation made under this or any other Act. 2006, c. 35, Sched. C, s. 92 (12).

Crown liability

(6) Subsection (5) does not, by reason of subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (5) to which it would otherwise be subject. 2019, c. 7, Sched. 17, s. 126.

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

2006, c. 35, Sched. C, s. 92 (8-12) - 20/08/2007

2009, c. 33, Sched. 2, s. 49 (1, 2) - 15/12/2009

2019, c. 7, Sched. 17, s. 126 - 01/07/2019

Payment of fees

58 (1) The Minister may,

- (a) establish fees that are payable in respect of any matter under this Act;
- (b) specify what persons are required to pay the fees and to whom the fees are payable;
- (c) provide for the retention of all or part of the fees by the person to whom they are payable; and
- (d) provide for the refund of fees. 2002, c. 4, s. 58 (1).

Obligation to pay

(2) A person required to pay fees described in subsection (1) shall pay them in accordance with that subsection. 2002, c. 4, s. 58 (2).

Regulations

59 The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional agricultural crops to be included as the agricultural crops mentioned in the definition of “agricultural operation” in section 2;
- (b) prescribing other agricultural activities conducted on, in or over agricultural land to be included in the definition of “agricultural operation” in section 2;
- (c) prescribing limits, expansions or clarifications of the activities described in the definition of “agricultural operation” in section 2;
- (d) prescribing additional animals, birds or fish to be included in the definition of “farm animals” in section 2;
- (e) exempting any agricultural operation, person or thing or class of agricultural operation, person or thing from the application of this Act, the regulations or a provision of this Act or the regulations and prescribing conditions for the exemptions;
- (f) prescribing anything described as prescribed or specified in the regulations or described as prepared or done in accordance with the regulations;
- (g) respecting procedures for inspections under Part IV, including procedures to prevent the transmission of contagious diseases, and requiring inspectors to follow the procedures;
- (h) prescribing procedures for the purposes of section 49;
- (i) defining, for the purposes of this Act and the regulations, any word or expression used in this Act that has not already been expressly defined in this Act;
- (i.1) governing any transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made to this Act by Schedule 10 to the *Accelerating Access to Justice Act, 2021*;
- (j) respecting anything that is necessary or advisable for the purposes of the enforcement of this Act and the regulations. 2002, c. 4, s. 59; 2021, c. 4, Sched. 10, s. 3 (4).

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

2021, c. 4, Sched. 10, s. 3 (4) - 01/06/2021

Powers in regulations

60 (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. 2002, c. 4, s. 60 (1).

Classes

(2) A regulation may apply in respect of any class of activity, matter, person or thing. 2002, c. 4, s. 60 (2).

Same

(3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination of those items 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. 2002, c. 4, s. 60 (3).

Adoption of codes

(4) A regulation may adopt by reference, in whole or in part, with the changes that the Lieutenant Governor in Council considers necessary, any code, formula, standard, guideline, protocol or procedure, and may require compliance with any code, formula, standard, guideline, protocol or procedure so adopted. 2002, c. 4, s. 60 (4).

Amendments to codes

(5) The power to adopt by reference and require compliance with a code, formula, standard, guideline, protocol or procedure in subsection (4) includes the power to adopt a code, formula, standard, guideline, protocol or procedure as it may be amended from time to time after the regulation is made. 2002, c. 4, s. 60 (5).

When effective

(6) The adoption of an amendment to a code, formula, standard, guideline, protocol or procedure 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*. 2002, c. 4, s. 60 (6).

By-law superseded

61 (1) A regulation supersedes a by-law of a municipality or a provision in that by-law if the by-law or provision addresses the same subject-matter as the regulation. 2002, c. 4, s. 61 (1).

By-law inoperative

(2) A by-law or a provision of a by-law that is superseded under subsection (1) is inoperative while the regulation is in force. 2002, c. 4, s. 61 (2).

62-66 OMITTED (AMENDS OR REPEALS OTHER ACTS). 2002, c. 4, ss. 62-66.

67 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2002, c. 4, s. 67.

68 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2002, c. 4, s. 68.

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