

## Pesticides Act

R.S.O. 1990, CHAPTER P.11

**Consolidation Period:** From December 31, 2011 to the [e-Laws currency date](#).

Last amendment: 2009, c. 33, Sched. 15, s. 9.

### Skip Table of Contents

	<b>CONTENTS</b>
<a href="#">1.</a>	Interpretation
<a href="#">2.</a>	Powers and duties of Minister
<a href="#">3.</a>	Appointment of Directors
<a href="#">4.</a>	Prohibited use of pesticides
<a href="#">5.</a>	Licences relating to exterminations
<a href="#">6.</a>	Licence to sell, offer to sell or transfer
<a href="#">7.</a>	Where permit required
<a href="#">7.1</a>	Prohibitions – pesticides used for cosmetic purposes
<a href="#">8.</a>	Act of officer, etc., of corporation
<a href="#">9.</a>	Liability insurance
<a href="#">10.</a>	Advisory Committee
<a href="#">11.</a>	Licences and permits: issue, renewal and revocation
<a href="#">12.</a>	Term of licence
<a href="#">13.</a>	Review, refusal to issue licences, etc.
<a href="#">14.</a>	Hearings
<a href="#">15.</a>	Appeals
<a href="#">16.</a>	Protection from personal liability
<a href="#">17.</a>	Provincial officers
<a href="#">18.</a>	Calling for assistance of member of police force
<a href="#">19.</a>	Inspection by provincial officer
<a href="#">19.1</a>	Inspection of vehicles and vessels
<a href="#">19.2</a>	Power to administer other Acts
<a href="#">19.3</a>	Entry to dwellings
<a href="#">19.4</a>	Identification
<a href="#">19.5</a>	Entry, etc., may be prohibited
<a href="#">19.6</a>	Order of justice: prohibiting entry, or use, etc., of things
<a href="#">19.7</a>	Securing of place
<a href="#">20.</a>	Order of justice: authorizing inspection
<a href="#">21.</a>	Samples and copies
<a href="#">22.</a>	Seizure during inspection
<a href="#">23.</a>	Searches relating to offences
<a href="#">23.1</a>	Detention or removal
<a href="#">24.</a>	Report to justice re: seizure
<a href="#">24.1</a>	Disposition of certain things
<a href="#">24.2</a>	Notice of disposal
<a href="#">24.3</a>	Forfeiture may be ordered
<a href="#">25.</a>	Use of force
<a href="#">25.1</a>	Order for use of monitoring device, etc.
<a href="#">26.</a>	Permit or licence condition, permission to inspect
<a href="#">26.1</a>	Order by provincial officer: contraventions
<a href="#">26.2</a>	Amendment or revocation of order under s. 26.1
<a href="#">26.3</a>	Review, order under ss. 26.1 or 26.2
<a href="#">26.4</a>	Non-application of notice requirement under s. 13
<a href="#">26.5</a>	Appeal to Tribunal, order under s. 26.3

<a href="#">27.</a>	Stop order
<a href="#">27.</a>	Control order
<a href="#">28.</a>	Discharge of pesticide, Director to be notified
<a href="#">29.</a>	Damage repair, cleaning and decontamination
<a href="#">30.</a>	Orders, successors, etc., bound, records
<a href="#">31.</a>	Definitions, ss. 31.1 to 31.6
<a href="#">31.1</a>	Interpretation, ss. 31.3 to 31.6
<a href="#">31.2</a>	Actions taken by municipalities
<a href="#">31.3</a>	Actions taken by secured creditors
<a href="#">31.4</a>	Receivers and trustees in bankruptcy
<a href="#">31.5</a>	Obligations of fiduciaries
<a href="#">31.6</a>	The Crown
<a href="#">32.</a>	Licences or permits not transferable
<a href="#">33.</a>	Exemption from regulations, applicants for licence
<a href="#">34.</a>	Regulations
<a href="#">35.</a>	Scope of regulations
<a href="#">36.</a>	Fees
<a href="#">37.</a>	Service
<a href="#">38.</a>	Enforcement of performance of things required to be done
<a href="#">39.</a>	Presiding judge
<a href="#">40.</a>	Offences
<a href="#">41.</a>	Penalties, general
<a href="#">42.</a>	Penalty re monetary benefit
<a href="#">43.</a>	Penalties, more serious offences
<a href="#">44.</a>	Order to prevent damage, etc.
<a href="#">45.</a>	Restitution orders
<a href="#">46.</a>	Forfeiture on conviction
<a href="#">46.1</a>	Where fine not paid
<a href="#">46.2</a>	Costs of seizure, etc.
<a href="#">46.3</a>	Suspension for default in payment of fine
<a href="#">46.4</a>	Limitation
<a href="#">47.</a>	Duty of director or officer of corporation
<a href="#">48.</a>	Service of offence notice, etc., offences re: vehicles
<a href="#">49.</a>	Service of offence notice, etc., corporations, etc.
<a href="#">50.</a>	Official documents, evidence
<a href="#">50.1</a>	Proceedings to prohibit continuation or repetition of contravention
<a href="#">51.</a>	Administrative changes to control orders and permits
<a href="#">52.</a>	Conflict with other legislation
<a href="#">52.1</a>	
<a href="#">53.</a>	

## Interpretation

### 1. (1) In this Act,

- “air” means open air not enclosed in a building, structure, machine, chimney, stack, flue or vehicle; (“air”)
- “analyst” means an analyst appointed under the *Environmental Protection Act*; (“analyste”)
- “Committee” means the Pesticides Advisory Committee; (“Comité”)
- “cosmetic” means non-essential; (“esthétique”)
- “discharge”, when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak; (“rejet”, “rejeter”)
- “document” includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device; (“document”)
- “environment” means the natural environment, a building, structure, machine and vehicle, or any of them; (“environnement”)
- “extermination” means a land extermination, structural extermination or a water extermination; (“destruction”)
- “extermination business” means an activity or enterprise carried on for the purpose of causing an extermination or exterminations to be performed for fee or payment; (“entreprise de destruction”)

“exterminator” means a person who, personally or through employees, assistants or agents, performs or enters into a contract to perform an extermination; (“destructeur”)

“inspection” includes an audit, examination, survey, test and inquiry; (“inspection”)

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

“land” means surface land not enclosed in a building or structure, land covered by water and all subsoil, or any combination or part thereof; (“terrain”)

“land extermination” means the destruction, prevention or control in, on or over land of a pest or pests by the use of a pesticide but does not include a structural extermination, a water extermination or the destruction, prevention or control of termites; (“destruction de parasites terrestres”)

“licence” means a licence issued under this Act and the regulations; (“licence”)

“licensee” means a person who is the holder of a licence under this Act; (“titulaire de licence”)

“Minister” means the Minister of the Environment; (“ministre”)

“Ministry” means the Ministry of the Environment; (“ministère”)

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

“operator” means a person who has the control and management of an extermination business, and “operate” has a corresponding meaning; (“exploitant”)

“permittee” means a person who is the holder of a permit under this Act; (“titulaire de permis”)

“person” includes a municipality, a corporation on behalf of Her Majesty in right of Ontario, and an agent of any of them; (“personne”)

“person responsible”, when used with reference to a pesticide, substance or thing, means,

(a) the owner,

(b) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display, or

(c) the person having the charge, management or control,

of the pesticide, substance or thing; (“personne responsable”)

“pest” means any injurious, noxious or troublesome plant or animal life other than humans or plant or animal life on or in humans and includes any injurious, noxious or troublesome organic function of a plant or animal; (“parasite”)

“pesticide” means any organism, substance or thing that is manufactured, represented, sold or used as a means of directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest or of altering the growth, development or characteristics of any plant life that is not a pest and includes any organism, substance or thing registered under the *Pest Control Products Act* (Canada); (“pesticide”)

“place” includes a building, structure, machine, vehicle or vessel; (“lieu”)

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

“provincial officer” means a person who is designated under section 17; (“agent provincial”)

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

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

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

“structural extermination” means the destruction, prevention or control of a pest that may adversely affect a building, structure, machine, vehicle or their contents or the use or enjoyment thereof by any person by the use of a pesticide in, on

or in the vicinity of the building, structure, machine or vehicle and includes the destruction, prevention or control of termites; (“destruction de parasites dans une structure”)

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

“water” means surface water and ground water, or either of them; (“eau”)

“water extermination” means the destruction, prevention or control in, on or over surface water of a pest by the use of a pesticide. (“destruction de parasites aquatiques”) R.S.O. 1990, c. P.11, s. 1 (1); 1993, c. 27, Sched.; 1998, c. 35, s. 77; 2000, c. 26, Sched. F, s. 14 (1, 2); 2001, c. 17, s. 6 (1); 2008, c. 11, s. 1 (1); 2009, c. 19, s. 71 (1).

**Idem, Director**

(2) In this Act,

“the Director” means a Director appointed under section 3. R.S.O. 1990, c. P.11, s. 1 (2).

**Health or safety**

(3) For the purposes of this Act, a danger to existing water supplies that are used for human consumption shall be deemed to be a danger to the health or safety of persons. 2001, c. 17, s. 6 (2).

**Use of pesticide**

(4) For the purposes of this Act,

(a) the placement or application of a pesticide is a use of the pesticide; and

(b) the mixing, dilution or loading of a pesticide for the purpose of placing or applying it is a use of the pesticide. 2008, c. 11, s. 1 (2).

**Powers and duties of Minister**

2. The Minister, for the purpose of the administration of this Act and the regulations, may,

(a) investigate problems relating to pesticides and the control of pests;

(b) conduct research relating to pesticides and the control of pests;

(c) conduct studies of the effect of pesticides and the control of pests on the quality of the environment;

(d) convene conferences and conduct seminars and educational programs relating to pesticides and the control of pests;

(e) gather, publish and disseminate information relating to pesticides and the control of pests;

(f) make grants and loans for research related to pesticides and the control of pests in such amounts and upon such terms and conditions as the regulations may prescribe;

(g) appoint committees to perform such advisory functions as the Minister considers requisite;

(h) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person relating to pesticides or the control of pests. R.S.O. 1990, c. P.11, s. 2.

**Appointment of Directors**

3. (1) The Minister shall appoint in writing such public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry as the Minister considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments. R.S.O. 1990, c. P.11, s. 3 (1); 2006, c. 35, Sched. C, s. 109 (1).

**Limitation of authority of Director**

(2) The Minister, in an appointment under subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. P.11, s. 3 (2).

**Prohibited use of pesticides**

4. No person, whether acting or not acting under the authority of a licence or permit under this Act or an exemption under the regulations, shall discharge or cause or permit the discharge of a pesticide or of any substance or thing containing a pesticide into the environment that,

(a) causes or is likely to cause impairment of the quality of the environment for any use that can be made of it greater than the impairment, if any, for such use that would necessarily result from the proper use of the pesticide;

- (b) causes or is likely to cause injury or damage to property or to plant or animal life greater than the injury or damage, if any, that would necessarily result from the proper use of the pesticide;
- (c) causes or is likely to cause harm or material discomfort to any person greater than the harm or material discomfort, if any, that would necessarily result from the proper use of the pesticide;
- (d) adversely affects or is likely to affect adversely the health of any person to a greater degree than the adverse effect, if any, that would necessarily result from the proper use of the pesticide;
- (e) impairs or is likely to impair the safety of any person to a greater degree than the impairment, if any, of the safety of any person that would necessarily result from the proper use of the pesticide; or
- (f) renders or is likely to render directly or indirectly any property or plant or animal life unfit for use by humans to a degree greater than the unfitness, if any, that would necessarily result from the proper use of the pesticide. R.S.O. 1990, c. P.11, s. 4.

**Licences relating to exterminations**

**Prohibition as to exterminations**

**5.** (1) No person shall engage in, perform or offer to perform an extermination except under and in accordance with a licence of a prescribed class and except by the use of a pesticide of a class and under the conditions for use prescribed for that class of licence or unless exempt under the regulations.

**Licence required to operate extermination business**

(2) No person shall operate an extermination business except under and in accordance with a licence of a prescribed class or unless exempt under the regulations.

**Idem, assistant structural exterminator**

(3) No person shall serve for a period of more than six months as an assistant to the holder of a licence to perform structural exterminations unless the person is licensed as an assistant exterminator or is exempt under the regulations.

**Notice as to assistants to land exterminators or water exterminators**

(4) No person shall serve for a period of more than seven days as an assistant to the holder of a licence to perform land exterminations or water exterminations unless the holder of the licence to perform the exterminations notifies the Director in writing or the person is exempt under the regulations. R.S.O. 1990, c. P.11, s. 5.

**Licence to sell, offer to sell or transfer**

**6.** Unless exempt by the regulations, no person shall sell, offer to sell or transfer any pesticide unless the pesticide is classified in accordance with the regulations and except under and in accordance with a licence that shall be for such class and in respect of each premises on, in or from which the pesticide is or will be sold, offered for sale or transferred. R.S.O. 1990, c. P.11, s. 6; 1997, c. 37, s. 5 (1).

**Where permit required**

- 7.** (1) No person shall perform a land extermination or a structural extermination,
- (a) by means of a pesticide;
  - (b) by means of a pesticide of a class; or
  - (c) under the conditions of use,

prescribed for the purpose of this section unless the person is the holder of a permit for the land extermination or the structural extermination issued by the Director or is exempt under the regulations.

**Idem**

(2) No person shall perform a water extermination unless the person is the holder of a permit issued by the Director for the water extermination or is exempt under the regulations. R.S.O. 1990, c. P.11, s. 7.

**Prohibitions – pesticides used for cosmetic purposes**

**7.1** (1) No person shall use or cause or permit the use in, on or over land of a pesticide that has been prescribed for the purpose of this subsection. 2008, c. 11, s. 2.

**Excepted uses**

- (2) Subject to the regulations, subsection (1) does not apply to the following uses of a pesticide:

1. Uses related to golf courses, if any prescribed conditions have been met.
2. Uses related to agriculture.
3. Uses related to forestry.
4. Uses related to the promotion of public health or safety.
5. Other prescribed uses, if any prescribed conditions have been met. 2008, c. 11, s. 2.

**Requirements related to excepted uses**

(3) A person who, pursuant to subsection (2), uses or causes or permits the use of a pesticide prescribed for the purpose of subsection (1) shall comply with such requirements as may be prescribed. 2009, c. 33, Sched. 15, s. 9 (1).

**Prohibition on sale, etc.**

(4) Despite section 6, no person shall sell, offer to sell or transfer a pesticide that has been prescribed for the purpose of this subsection. 2008, c. 11, s. 2.

**By-laws inoperative**

(5) A municipal by-law is inoperative if it addresses the use, sale, offer for sale or transfer of a pesticide that may be used for a cosmetic purpose. 2008, c. 11, s. 2.

**Act of officer, etc., of corporation**

8. For the purposes of this Act and the regulations, an act or thing done or omitted to be done by an officer, official, employee or agent of a corporation in the course of his or her employment or in the exercise of his or her powers or the performance of his or her duties shall be deemed to be also an act or thing done or omitted to be done by the corporation. R.S.O. 1990, c. P.11, s. 8.

**Liability insurance**

9. An operator shall insure against liability or furnish a bond as provided for by the regulations. R.S.O. 1990, c. P.11, s. 9.

**Advisory Committee**

10. (1) The Committee known as the Pesticides Advisory Committee established under *The Pesticides Act*, being chapter 346 of the Revised Statutes of Ontario, 1970, and consisting of not fewer than ten members appointed by the Lieutenant Governor in Council one of whom may be designated by the Lieutenant Governor in Council as chair and for whom the Lieutenant Governor in Council may appoint a person who is not a member as secretary, is continued under the name Pesticides Advisory Committee in English and Comité consultatif sur les pesticides in French.

**Quorum**

(2) Six members of the Committee constitute a quorum.

**Functions**

(3) The Committee shall,

- (a) review annually the content and operation of this Act and the regulations and recommend changes or amendments therein to the Minister;
- (b) inquire into and consider any matter the Committee considers advisable concerning pesticides and the control of pests, and any matter concerning pesticides and the control of pests referred to it by the Minister, and report thereon to the Minister;
- (c) review publications of the Government of Ontario respecting pesticides and the control of pests, and report thereon to the Minister; and
- (d) perform such other functions as the regulations prescribe. R.S.O. 1990, c. P.11, s. 10.

**Licences and permits: issue, renewal and revocation**

11. (1) Subject to subsection (2), the Director shall issue or renew a licence under section 5 or 6, and subject to subsection (3), the Director shall issue a permit under section 7 to any person who applies for the licence or permit, as the case may be, in accordance with the regulations and who meets the requirements of this Act and the regulations for the particular class of licence or for the permit applied for and who pays the fee prescribed for the licence or permit.

**Revocation and refusal of licence**

(2) Subject to section 13, the Director may refuse to issue or renew a licence or may suspend or revoke a licence where, in the opinion of the Director,

- (a) the applicant or licensee is in contravention of this Act or the regulations;
- (b) the licensee is in breach of any term or condition of the licence;
- (c) the applicant or licensee or, where the applicant or licensee is a corporation, its officers or directors, is or are not competent to carry on the activity that would be or is authorized by the licence;
- (d) the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of any of its officers or directors, affords reasonable grounds for belief that the activity that would be or is authorized by the licence will not be carried on with honesty and integrity;
- (e) the applicant or licensee does not possess or will not have available all premises, facilities and equipment necessary to carry on the activity authorized by the licence in accordance with this Act, the regulations and the licence;
- (f) the applicant or licensee is not in a position to observe or carry out the provisions of this Act, the regulations and the licence;
- (g) the licensee has been grossly negligent in carrying on the activity that is authorized by the licence; or
- (h) the licensee has fraudulently misrepresented their services in performing an extermination or in carrying on an extermination business.

**Revocation and refusal of permit**

(3) The Director may refuse to issue or may cancel a permit, may impose terms and conditions in issuing or after issuing a permit and may alter the terms and conditions of a permit that has been issued where the Director is of the opinion, upon reasonable and probable grounds, that,

- (a) the applicant or permittee is not competent to perform the extermination for which the permit is required;
- (b) the applicant or permittee does not possess or will not have available all facilities and equipment necessary to perform the extermination in accordance with this Act, the regulations and the permit;
- (c) there is or is likely to be danger to the health or safety of any person;
- (d) there is or is likely to be harm or material discomfort to any person;
- (e) there is or is likely to be impairment of the quality of the environment for any use that is being or is likely to be made of it;
- (f) there is or is likely to be injury or damage to any property or to plant or animal life;
- (g) any property or plant or animal life is or is likely to be rendered directly or indirectly unfit for use by humans;
- (h) a different method of control or extermination will or will likely be substantially as effective as the proposed extermination for which a permit is required under section 7 and will or will likely cause less impairment of the environment, if any, for any use that is being or is likely to be made of it or less harm to or adverse effect, if any, on any plant or animal life, humans or property; or
- (i) the use of the pesticide will not be or will not likely be effective or necessary to carry out the extermination. R.S.O. 1990, c. P.11, s. 11.

**Term of licence**

**12.** A licence expires as prescribed by the regulations. R.S.O. 1990, c. P.11, s. 12.

**Review, refusal to issue licences, etc.**

**13.** (1) Where the Director proposes,

- (a) to refuse to issue or renew a licence;
- (b) to suspend or revoke a licence; or
- (c) to make, amend or vary a control order,

he or she shall serve notice of the proposal, together with written reasons therefor, on the applicant, licensee or person to whom the Director intends to direct the control order. R.S.O. 1990, c. P.11, s. 13 (1).

**Notice**

(2) A notice under subsection (1) shall state that the applicant, licensee or person to whom the Director intends to direct the control order is entitled to a hearing by the Tribunal if they mail or deliver to the Director and the Tribunal, within fifteen days after the notice under subsection (1) is served on them, notice in writing requiring a hearing. R.S.O. 1990, c. P.11, s. 13 (2); 2000, c. 26, Sched. F, s. 14 (4).

**Powers of Director where no hearing**

(3) Where an applicant, licensee or person to whom the Director intends to direct the control order does not require a hearing by the Tribunal in accordance with subsection (2), the Director may carry out the proposal stated in the notice under subsection (1). R.S.O. 1990, c. P.11, s. 13 (3); 2000, c. 26, Sched. F, s. 14 (4).

**Powers of Tribunal where hearing**

(4) Where an applicant, licensee or person to whom the Director intends to direct the control order requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time and place for and hold the hearing and may by order direct the Director to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Director. R.S.O. 1990, c. P.11, s. 13 (4); 2000, c. 26, Sched. F, s. 14 (4).

**Extension of time for requiring hearing**

(5) The Tribunal may extend the time for the giving of notice requiring a hearing by an applicant, licensee or person to whom the Director intends to direct a control order referred to in subsection (1), either before or after the expiration of such time, where it is satisfied that there are reasonable grounds for applying for the extension and that there are apparent grounds for granting relief to the applicant, licensee or person to whom the Director intends to direct the control order referred to in subsection (1), and the Tribunal may give such directions as it considers proper consequent upon the extension. R.S.O. 1990, c. P.11, s. 13 (5); 2000, c. 26, Sched. F, s. 14 (4).

**Continuation of licence pending renewal**

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of a licence, the licensee has applied for a renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where the licensee is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Tribunal has expired and, where a hearing is required, until the Tribunal has made its decision. R.S.O. 1990, c. P.11, s. 13 (6); 2000, c. 26, Sched. F, s. 14 (4).

**Emergency notice**

(7) Despite subsection (6), where the Director is of the opinion that an emergency exists by reason of,

- (a) danger to the safety or health of any person;
- (b) impairment or immediate risk of impairment of the environment for any use that is being or is likely to be made of it;
- (c) injury or damage or immediate risk of injury or damage to property, or to plant or animal life;
- (d) the rendering or immediate risk of rendering directly or indirectly of any property or plant or animal life unfit for use by humans; or
- (e) a failure by a licensee to have in force insurance against liability or to furnish or have in force a bond as required by section 9,

the Director, by a notice to a licensee or to a person to whom the Director intends to direct a control order, together with written reasons therefor, may refuse to renew, suspend or revoke a licence or make, amend or vary a control order and, even if the licensee or person to whom the control order is directed requires a hearing by the Tribunal, the licence shall not be deemed to continue or the suspension, revocation or the making, amendment or variation of the control order is effective upon the service of the notice, as the case requires. R.S.O. 1990, c. P.11, s. 13 (7); 2000, c. 26, Sched. F, s. 14 (4).

**Where permit cancelled or terms or conditions imposed or altered**

(8) Where the Director refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued, the Director shall forthwith thereafter serve or cause to be served notice of his or her decision, upon the applicant or permittee, together with written reasons therefor. R.S.O. 1990, c. P.11, s. 13 (8).

**Reconsideration**

(9) Where the Director issues a permit subject to a term or condition, refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued and the applicant or permittee makes submissions to the Director,

the Director, within three days after receiving the submissions, shall reconsider and vary, rescind or confirm his or her decision and shall serve or cause to be served notice of such variance, rescission or confirmation upon the applicant or permittee together with written reasons therefor and where the Director varies or rescinds the decision, the Director shall take such action as may be necessary to make the variation or rescission effective. R.S.O. 1990, c. P.11, s. 13 (9).

#### **Notice**

(10) A permit issued by the Director subject to a term or condition and a notice under subsection (8) shall inform the applicant or permittee that they are entitled to make submissions to the Director, in person or by a person authorized under the *Law Society Act* to represent the applicant or permittee and by telephone or otherwise and that they are entitled to a hearing by the Tribunal if they mail or deliver to the Director and the Tribunal, within fifteen days after the notice under subsection (9) is served on them, notice in writing requiring a hearing and they may so make such submissions and so require such a hearing. R.S.O. 1990, c. P.11, s. 13 (10); 2000, c. 26, Sched. F, s. 14 (4); 2006, c. 21, Sched. C, s. 129 (1).

#### **Effect of service of notice**

(11) Despite the making of submissions by an applicant or a permittee under subsection (10), the issuance of a permit subject to a term or condition or the cancellation of a permit or the imposition or alteration of a term or condition in a permit that has been issued by the Director is effective upon the issuance of the permit or upon the service of the notice under subsection (8). R.S.O. 1990, c. P.11, s. 13 (11).

#### **Application of subs. (4), (5)**

(12) Subsections (4) and (5) apply with necessary modifications to a hearing by the Tribunal required under subsection (10). R.S.O. 1990, c. P.11, s. 13 (12); 2000, c. 26, Sched. F, s. 14 (4).

#### **Hearings**

**14.** (1) The Director, the applicant, licensee, permittee or person to whom the Director intends to direct a control order who has required a hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under section 13. R.S.O. 1990, c. P.11, s. 14 (1); 2000, c. 26, Sched. F, s. 14 (4).

#### **Notice of hearing**

(2) The Tribunal shall afford to the applicant, licensee, permittee or person to whom the Director intends to direct a control order a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or permit or to take such action as will preclude the necessity for making, amending or varying the control order. R.S.O. 1990, c. P.11, s. 14 (2); 1994, c. 27, s. 117; 2000, c. 26, Sched. F, s. 14 (4); 2001, c. 9, Sched. G, s. 7 (3).

#### **Examination of documentary evidence**

(3) An applicant, licensee, permittee or person to whom the Director intends to direct a control order who is a party to proceedings under section 13 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. P.11, s. 14 (3).

#### **Members holding hearing not to have taken part in investigation, etc.**

(4) Members of the Tribunal holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or party's representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. R.S.O. 1990, c. P.11, s. 14 (4); 2000, c. 26, Sched. F, s. 14 (4).

(5) REPEALED: 1997, c. 37, s. 5 (2).

#### **Findings of fact**

(6) The findings of fact of the Tribunal following on a hearing shall be based exclusively on evidence admissible or matters that may be noticed under the *Statutory Powers Procedure Act*. 1998, c. 35, s. 78; 2000, c. 26, Sched. F, s. 14 (4).

(7) REPEALED: 2000, c. 26, Sched. F, s. 14 (3).

#### **Release of documentary evidence**

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to the person by the Tribunal within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. P.11, s. 14 (8); 2000, c. 26, Sched. F, s. 14 (4).

## **Appeals**

**15.** (1) Any party to proceedings before the Tribunal may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. P.11, s. 15 (1); 2000, c. 26, Sched. F, s. 14 (4).

(2) REPEALED: 1997, c. 37, s. 5 (4).

### **Minister entitled to be heard**

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under subsection (1). R.S.O. 1990, c. P.11, s. 15 (3).

### **Appeal to Minister**

(4) Any party to a hearing before the Tribunal, within thirty days after receipt of the decision of the Tribunal or within thirty days after final disposition of an appeal, if any, under subsection (1), may appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as he or she considers in the public interest. R.S.O. 1990, c. P.11, s. 15 (4); 2000, c. 26, Sched. F, s. 14 (4).

### **Protection from personal liability**

**16.** (1) No action or other proceeding for damages or otherwise shall be instituted against any of the following persons for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of such a duty or authority:

1. A member of the Committee.
2. An employee in the Ministry.
3. A provincial officer employed under Part III of the *Public Service of Ontario Act, 2006*.
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 1, 2 or 3. 2006, c. 35, Sched. C, s. 109 (2); 2009, c. 33, Sched. 2, s. 58.

### **Exception**

(1.1) Subsection (1) does not apply in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person described in subsection (1) in any Act or in a regulation made under this or any other Act. 2006, c. 35, Sched. C, s. 109 (2).

### **Crown not relieved of liability**

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1990, c. P.11, s. 16 (2).

### **Provincial officers**

**17.** (1) The Minister may designate in writing one or more public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or other persons as provincial officers for the purposes of this Act and the regulations. R.S.O. 1990, c. P.11, s. 17 (1); 2006, c. 35, Sched. C, s. 109 (3).

### **Provincial officers are peace officers**

(2) A provincial officer is a peace officer for the purpose of enforcing this Act. 1998, c. 35, s. 79.

### **Investigation and prosecution**

(3) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act. 1998, c. 35, s. 79.

### **Obstruction**

(4) No person shall hinder or obstruct any provincial officer or any employee in or agent of the Ministry in the performance of his or her duties under this Act. 1998, c. 35, s. 79; 2006, c. 35, Sched. C, s. 109 (4).

### **False information**

(5) No person shall orally, in writing or electronically, give or submit false or misleading information in any statement, document or data to any provincial officer, the Minister, the Ministry, 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. 1998, c. 35, s. 79; 2001, c. 9, Sched. G, s. 7 (4); 2006, c. 35, Sched. C, s. 109 (5).

**Same**

(6) No person shall include false or misleading information in any document or data required to be created, stored or submitted under this Act. 1998, c. 35, s. 79.

**Refusal to furnish information**

(7) No person shall refuse to furnish any provincial officer, the Minister, the Ministry or any employee in or agent of the Ministry with information required for the purposes of this Act and the regulations. 1998, c. 35, s. 79; 2006, c. 35, Sched. C, s. 109 (6).

**Calling for assistance of member of police force**

**18.** Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance. R.S.O. 1990, c. P.11, s. 18.

**Inspection by provincial officer**

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

- (a) entering any place in which the provincial officer reasonably believes a pesticide can be found;
- (b) entering any place in or from which the provincial officer reasonably believes a pesticide is being, has been or may be discharged into the environment;
- (c) entering any place that the provincial officer reasonably believes is likely to contain documents related to,
  - (i) an activity or undertaking that is, or is required to be, the subject of a permit, licence or order under this Act,
  - (ii) an activity or undertaking that is exempted by a regulation from any requirement to have a permit or licence under this Act and that is regulated by the provisions of the regulation, or
  - (iii) the discharge of a pesticide into the environment; and
- (d) entering any place that the provincial officer reasonably believes,
  - (i) is, or is required to be, subject to or referred to in a permit, licence or order under this Act, or
  - (ii) is subject to or referred to in a regulation that provides for an exemption from any requirement to have a permit or licence under this Act, where the regulation includes provisions that regulate the place. 1998, c. 35, s. 80; 2009, c. 19, s. 71 (2).

**Same**

- (2) During an inspection under subsection (1), the provincial officer may,
- (a) make necessary excavations;
  - (b) require that any thing be operated, used or set in motion under conditions specified by the provincial officer;
  - (c) take samples for analysis;
  - (d) conduct tests or take measurements;
  - (e) examine, record or copy any document or data, in any form, by any method;
  - (f) record the condition of a place or the natural environment by means of photograph, video recording or other visual recording;
  - (g) require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purposes of the inspection;
  - (h) remove from a place documents or data, in any form, produced under clause (g) for the purpose of making copies; and
  - (i) make reasonable inquiries of any person, orally or in writing. 1998, c. 35, s. 80.

**Limitation re records**

(3) A record made under clause (2) (f) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 1998, c. 35, s. 80.

#### **Limitation re removal of documents, data**

(4) A provincial officer shall not remove documents or data under clause (2) (h) without giving a receipt for them and shall promptly return the documents or data to the person who produced them. 1998, c. 35, s. 80.

#### **Power to exclude persons**

(5) A provincial officer who exercises the power set out in clause (2) (i) may exclude from the questioning any person except counsel for the individual being questioned. 1998, c. 35, s. 80; 2009, c. 33, Sched. 15, s. 9 (2).

#### **Inspection of vehicles and vessels**

**19.1** (1) In this section,

“vehicle” includes a trailer or other equipment attached to the vehicle. 1998, c. 35, s. 80.

#### **Requirement to stop**

(2) For the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop. 1998, c. 35, s. 80.

#### **Same**

(3) On the provincial officer’s signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop. 1998, c. 35, s. 80.

#### **Same**

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

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

(b) intermittent flashes of blue light, in the case of a vessel; and

(c) a hand signal to stop by a provincial officer who is readily identifiable as a provincial officer. 1998, c. 35, s. 80.

#### **Sign to report**

(5) Where a clearly marked sign is posted indicating that a class of vehicles or vessels should report to a certain place in the vicinity of the sign, the operator of a vehicle or vessel that passes the sign and that falls within the class of vehicles or vessels indicated shall report forthwith to the place the sign directs. 1998, c. 35, s. 80.

#### **Same**

(6) Where the operator of a vehicle or vessel stops under subsection (3) or reports under subsection (5), the provincial officer may make any reasonable inquiries of the operator and the operator shall produce for inspection any documents related to the operation or ownership of the vehicle or vessel, including licenses, permits and any documents that are required to be kept by the law of any jurisdiction in relation to the carriage of any cargo or container. 1998, c. 35, s. 80.

#### **Inspection powers**

(7) Based on questioning or examination of documents conducted under subsection (6), the provincial officer may, without warrant or court order, inspect any means of containment that the provincial officer reasonably believes is being used for the handling or transportation of a pesticide. 1998, c. 35, s. 80; 2009, c. 19, s. 71 (3).

#### **Same**

(8) As part of an inspection under subsection (7), the provincial officer may open or require the operator to open any cargo hold, container or other means of containment. 1998, c. 35, s. 80.

#### **Same**

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise such powers under subsection 19 (2) as are reasonably required for the administration of this Act or the regulations. 1998, c. 35, s. 80.

#### **Same**

(10) Subsections 19 (3), (4) and (5) apply to the exercise of a power under subsection (9). 1998, c. 35, s. 80.

#### **Power to administer other Acts**

**19.2** A provincial officer who exercises any power set out in section 19, 19.1, 22, 23 or 23.1 may, if the provincial officer is designated as such under the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Safe Drinking Water Act, 2002* or the *Toxics Reduction Act, 2009*, as the case may be, do anything authorized by,

- (a) section 156, 156.1, 160, 161 or 161.1 of the *Environmental Protection Act*;
- (b) section 13, 14 or 23 of the *Nutrient Management Act, 2002*;
- (c) section 15, 15.1, 19, 20 or 20.1 of the *Ontario Water Resources 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. 71 (4).

**Note:** On the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force, clause (e) is amended by striking out “section 15, 20 or 21” at the beginning and substituting “section 15, 15.1, 20, 20.1 or 21”. See: 2009, c. 19, ss. 71 (5), 73 (2).

#### **Entry to dwellings**

**19.3** A person shall not exercise a power conferred by this Act to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order under section 20. 1998, c. 35, s. 80.

#### **Identification**

**19.4** On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer either by the production of a copy of his or her designation or in some other manner and shall explain the purpose of the exercise of the power. 1998, c. 35, s. 81.

#### **Entry, etc., may be prohibited**

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

1. During an inspection under section 19, section 19.1 or 20.
2. During a search under section 23.
3. During the time required for the provincial officer to obtain an order under section 20 of this Act or a warrant under section 158 of the *Provincial Offences Act*.
4. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*.

#### **Requirements for order**

- (2) An order under subsection (1) shall not be issued unless the provincial officer reasonably believes that,
  - (a) in the case of an order prohibiting entry, there is on the land or in the place a thing that will afford evidence of an offence under this Act;
  - (b) in the case of an order prohibiting the use of, interference with, disruption of, or destruction of a thing, the thing will afford evidence of an offence under this Act; or
  - (c) in the case of an order prohibiting entry or an order prohibiting the use of, interference with, disruption of, or destruction of a thing, there is a discharge or a likelihood of discharge of a pesticide or a substance or thing containing a pesticide into the environment, out of the normal course of events, from the land, place or thing, that has resulted or is likely to result in an effect referred to in any of clauses 29 (a) to (f).

#### **Notice of order**

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

#### **Contents of notice**

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

#### **Order not effective where no notice**

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

#### **Request for rescission**

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

#### **Powers of Director**

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

**Same**

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

**Same**

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

**No stay**

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

**Duration of order**

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

(a) subject to clause (b), be effective for the shorter of the length of time necessary to complete the inspection or search referred to in that subsection or a period not exceeding two days excluding holidays; or

(b) where the inspection or search referred to in subsection (1) is under an order under section 20 of this Act or under a warrant issued under section 158 of the *Provincial Offences Act* and a time limit for the inspection or search is specified in the order or warrant, be effective until the expiration of that time. 1998, c. 35, s. 81.

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

**19.6** (1) Where a justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground for believing that it is appropriate for the administration of this Act or the regulations or necessary to protect human health or safety or to protect property, the justice may issue an order prohibiting entry into all or part of any land or place or prohibiting the use of, interference with, disruption of, or destruction of any thing. 1998, c. 35, s. 81.

**Same**

(2) The prohibition under the justice's order shall, subject to subsection (3), be for such period of time as is set out in the order. 1998, c. 35, s. 81.

**Expiry**

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order or the day that is 30 days after the date on which the order is made. 1998, c. 35, s. 81; 2009, c. 33, Sched. 15, s. 9 (3).

**Renewal**

(4) An order under this section may be renewed for any reason set out in subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 1998, c. 35, s. 81.

**Notice of application**

(5) An initial order under subsection (1) may be issued on application without notice. 1998, c. 35, s. 81.

**Same**

(6) A renewal order under subsection (4) may be issued on application made with such notice, if any, as is specified for the purpose under subsection (7). 1998, c. 35, s. 81.

**Same**

(7) In an order under subsection (1) or (4), a justice may specify notice requirements that must be met by a person applying for a renewal of the order or for a further renewal of the order, as the case may be. 1998, c. 35, s. 81.

**Notice of order**

(8) A provincial officer may give notice of an order under subsection (1) or (4) in the manner that he or she considers appropriate in the circumstances. 1998, c. 35, s. 81.

**Order not effective where no notice**

(9) An order under subsection (1) or (4) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order. 1998, c. 35, s. 81.

**Securing of place**

**19.7** Where an order under section 19.5 or 19.6 is in effect, a provincial officer may take measures to secure the land, place or thing to which the order relates by means of locks, gates, fences, security guards or such other means as the provincial officer deems necessary to prevent entry into the land or place or to prevent the use of, interference with, disruption of, or destruction of the thing. 1998, c. 35, s. 81.

**Order of justice: authorizing inspection**

**20.** (1) A justice may issue an order authorizing a provincial officer to do anything set out in subsection 19 (1) or (2) or section 19.1 if the justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground to believe that it is appropriate for the administration of this Act or the regulations for the provincial officer to do anything set out in subsection 19 (1) or (2) or section 19.1 and that the provincial officer may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked or otherwise inaccessible;
- (b) a person has prevented the provincial officer from doing anything set out in subsection 19 (1) or (2) or section 19.1;
- (c) there is reasonable ground to believe that a person may prevent a provincial officer from doing anything set out in subsection 19 (1) or (2) or section 19.1;
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the provincial officer to obtain an order under this section without delay if access is denied; or
- (e) there is reasonable ground to believe that an attempt by the provincial officer to do anything set out in subsection 19 (1) or (2) or section 19.1 without the order,
  - (i) might not achieve its purpose, or
  - (ii) might endanger human health or safety, property or the natural environment. 1998, c. 35, s. 82.

**Same**

- (2) Subsections 19 (3), (4) and (5) apply to an inspection under an order under this section. 1998, c. 35, s. 82.

**Expiry**

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order and the day that is 30 days after the date on which the order is made. 1998, c. 35, s. 82; 2009, c. 33, Sched. 15, s. 9 (4).

**Renewal**

(4) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 1998, c. 35, s. 82.

**When to be executed**

(5) An order under this section shall be carried out between 6 a.m. and 9 p.m., unless the order otherwise authorizes. 1998, c. 35, s. 82.

**Application without notice**

- (6) An order under this section may be issued or renewed on application without notice. 1998, c. 35, s. 82.

**Samples and copies**

**21.** A provincial officer may detain samples or copies obtained under section 19, 19.1 or 20 for any period and for any of the purposes of this Act and the regulations. 1998, c. 35, s. 83.

**Seizure during inspection**

**22.** During an inspection under section 19, 19.1 or 20, a provincial officer may, without a warrant or court order, seize any thing that is produced to the provincial officer or that is in plain view, if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence under this Act;
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence; or
- (c) the thing is discharging or is likely to discharge a pesticide, or a substance or thing containing a pesticide, into the environment out of the normal course of events and impairment of the environment has resulted or is likely to result. 1998, c. 35, s. 83.

**Searches relating to offences**

**23.** (1) In this section,

“offence” means an offence under section 4, 6, 7 or 7.1. R.S.O. 1990, c. P.11, s. 23 (1); 2008, c. 11, s. 3.

**Search by provincial officer re actual pollution**

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

- (a) that an offence has been committed;
- (b) that there is in such place any thing that will afford evidence as to the commission of the offence; and
- (c) that there are exigent circumstances that make it impractical to obtain a search warrant. R.S.O. 1990, c. P.11, s. 23 (2).

**Seizure during search**

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

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence; or
  - (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence and that the seizure is necessary to prevent the continuation or repetition of the offence. 1998, c. 35, s. 84.
- (4) REPEALED: 1998, c. 35, s. 84.

**Detention or removal**

**23.1** (1) A provincial officer who seizes any thing under section 22 or 23 may remove the thing or may detain it in the place where it is seized.

**Receipt**

(2) Where possible, the provincial officer shall inform the person from whom a thing is seized under section 22 or 23 as to the reason for the seizure and shall give the person a receipt for the thing seized. 1998, c. 35, s. 85.

**Report to justice re: seizure**

**24.** (1) A provincial officer who seizes any thing during an inspection or search under section 22 or 23 shall bring the thing seized before a justice or, if that is not reasonably possible, shall report the seizure to a justice. 1998, c. 35, s. 86.

**Seizure**

(2) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized by a provincial officer during an inspection or search under section 22 or 23. R.S.O. 1990, c. P.11, s. 24 (2).

**Disposition of certain things**

**24.1** (1) Where the Director believes that, given the nature of a thing seized under section 22 or 23, the thing may pose a risk to human health or safety or to property, the Director may direct the person having custody of the thing, to dispose of the thing in a manner satisfactory to the Director.

**Disposition of seized perishables**

(2) Where the person having custody of any thing seized under section 22 or 23 believes that the thing will rot, spoil or otherwise perish, the person may dispose of the thing.

**Non-application of provision**

(3) Section 24 does not apply to a thing disposed of in accordance with this section.

**Forfeiture**

(4) A thing disposed of in accordance with this section is forfeited to the Crown. 1998, c. 35, s. 87.

**Notice of disposal**

**24.2** (1) Where a thing has been disposed of in accordance with section 24.1, the Director shall ensure that a provincial officer gives written notice of the seizure and disposal, within 15 days of the disposal,

- (a) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized; and

- (b) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner. 1998, c. 35, s. 87.

**Contents of notice**

- (2) Notice under subsection (1) shall include,
  - (a) a description of the thing seized sufficient to enable it to be identified;
  - (b) the location at which the thing was seized;
  - (c) the date of the seizure and disposal;
  - (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
  - (e) a statement of the reason for the seizure and disposal;
  - (f) a reference to the statutory provision authorizing the seizure and disposal; and
  - (g) a reference to the statutory provision permitting the person to apply to the Superior Court of Justice for relief against the forfeiture. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

**Forfeiture may be ordered**

**24.3** (1) On the application of the Director, the Superior Court of Justice may order that a thing seized under section 22 or 23 or under a warrant issued under the *Provincial Offences Act* in connection with the commission or suspected commission of an offence under this Act be forfeited to the Crown. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

**Where no order to be made**

- (2) No order shall be made under subsection (1) unless the court is satisfied that,
  - (a) the seizure was lawful; and
  - (b) no later than seven days before the hearing of the application, written notice has been provided by a provincial officer,
    - (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
    - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,
    - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
    - (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 87.

**Contents of notice**

- (3) Notice under subsection (2) shall include,
  - (a) a description of the thing seized sufficient to enable it to be identified;
  - (b) the location at which the thing was seized;
  - (c) the date of the seizure;
  - (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
  - (e) a statement of the reason for the seizure;
  - (f) a reference to the statutory provision authorizing the seizure;
  - (g) a statement that an order for forfeiture of the thing is being sought under this section; and
  - (h) a statement that the person to whom the notice is provided may make submissions to the Superior Court of Justice with respect to the issuance of an order under this section. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

**Disposition of things forfeited**

- (4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 87.

**Relief against forfeiture**

(5) A person who had an interest in a thing forfeited under section 24.1 or this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

**When relief not to be ordered**

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with a notice under section 41.1 requiring the person to pay an administrative penalty in connection with a matter that was associated with the seizure of the thing, unless the requirement to pay the administrative penalty is rescinded under section 41.1; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 87.

**Use of force**

**25.** (1) A provincial officer may use such force as is reasonably necessary,

- (a) to carry out an order issued under this Act, other than an order issued by a provincial officer;
- (b) to execute a warrant issued under the *Provincial Offences Act*; or
- (c) to prevent the destruction of any thing that the provincial officer reasonably believes may afford evidence of an offence under this Act. R.S.O. 1990, c. P.11, s. 25; 1998, c. 35, s. 88 (1, 2).

**Same**

(2) For the purposes of clause (1) (a), an order issued by the Director that confirms or amends an order issued by a provincial officer is not an order issued by a provincial officer. 1998, c. 35, s. 88 (3).

**Order for use of monitoring device, etc.**

**25.1** (1) In this section,

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

**Order may be issued**

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

**Limitation**

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

**Same**

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

**Terms and conditions of order**

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

**Activities under order**

- (6) An order issued under this section may authorize a provincial officer,
- (a) to place, install, maintain or remove a device in or on any land, place or thing; and

- (b) to monitor, or to have monitored, a device or information from a device placed or installed in or on any land, place or thing.

**Duration of order**

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

**Further orders**

(8) A justice may issue further orders under subsection (2). 1998, c. 35, s. 89.

**Permit or licence condition, permission to inspect**

**26.** It is a condition of every permit or licence under this Act 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 permit or licence relates:

1. Section 19, 19.1 or 20 of this Act.
2. Section 156, 156.1 or 158 of the *Environmental Protection Act*.
3. Section 13, 14 or 16 of the *Nutrient Management Act, 2002*.
4. Section 15, 15.1 or 17 of the *Ontario Water Resources 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. 71 (6).

**Note:** On the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force, paragraph 6 is amended by striking out “Section 15 or 18” at the beginning and substituting “Section 15, 15.1 or 18”. See: 2009, c. 19, ss. 71 (7), 73 (2).

**Order by provincial officer: contraventions**

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

- (a) a provision of this Act or the regulations;
- (b) a provision of an order under this Act; or
- (c) a term or condition of a licence or permit issued under this Act.

**Information to be included in order**

- (2) The order shall,
  - (a) specify the provision, term or condition that the provincial officer believes is being or has been contravened;
  - (b) briefly describe the nature and, where applicable, the location of the contravention; and
  - (c) state that a review of the order may be requested in accordance with section 26.3.

**What order may require**

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

- (a) achieving compliance with the provision, term or condition;
- (b) preventing the continuation or repetition of the contravention;
- (c) the securing, whether through locks, gates, fences, security guards or other means, of any land, place or thing;
- (d) where the contravention has any of the effects mentioned in subsection 28 (1), doing all or any of the things specified in subsection 28 (2);
- (e) the removal of a pesticide or a substance or thing contaminated by or containing a pesticide;
- (f) where the contravention has caused damage to or endangered or is likely to cause damage to or endanger existing water supplies, providing alternate water supplies;
- (g) submitting a plan for achieving compliance with the provision, term or condition, including the engagement of contractors or consultants satisfactory to a provincial officer;

- (h) submitting an application for a licence or permit;
- (i) monitoring and recording in relation to the environment and reporting on the monitoring and recording; and
- (j) posting notice of the order. 1998, c. 35, s. 91.

**Amendment or revocation of order under s. 26.1**

**26.2** (1) An order issued under section 26.1 may, by order, be amended or revoked by the provincial officer who issued it or by the Director.

**Same**

(2) A provincial officer or Director who amends or revokes an order shall give written notice of the amendment or revocation to the person to whom the order is directed. 1998, c. 35, s. 91.

**Review, order under ss. 26.1 or 26.2**

**26.3** (1) A person to whom an order under section 26.1 or 26.2 is directed may, within seven days after being served with a copy of the order, request that the Director review the order. 1998, c. 35, s. 91.

**Manner of making request**

(2) The request may be made orally, with written confirmation served on the Director within the time specified in subsection (1), or in writing. 1998, c. 35, s. 91.

**Contents of request for review**

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

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the applicant for the review wishes the Director to consider; and
- (c) for the purpose of subsection (7), an address for service by mail or by facsimile transmission or by such other means of service as the regulations may prescribe. 1998, c. 35, s. 91.

**No automatic stay**

(4) The request for review does not stay the order, unless the Director orders otherwise in writing. 1998, c. 35, s. 91.

**Decision of Director**

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

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person requesting the review, confirm or amend the order of the provincial officer. 1998, c. 35, s. 91.

**Same**

(6) For the purposes of subsection (5), the Director may substitute his or her own opinion for that of the provincial officer. 1998, c. 35, s. 91.

**Notice of decision**

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

- (a) a decision to revoke the order of the provincial officer; or
- (b) an order to confirm or amend the order of the provincial officer, together with reasons. 1998, c. 35, s. 91.

**Automatic confirmation of order**

(8) If, within seven days of receiving a written request for review or a written confirmation of an oral request for review, the Director does not make a decision under subsection (5) and give oral or written notice of the decision to the person requesting the review, the order in respect of which the review is sought shall be deemed to have been confirmed by order of the Director. 1998, c. 35, s. 91.

**Same**

(9) For the purpose of an appeal to the Tribunal, a confirming order deemed to have been made by the Director under subsection (8),

- (a) shall be deemed to be directed to each person to whom the order of the provincial officer was directed; and
- (b) shall be deemed to have been served, on each person to whom the order of the provincial officer was directed, at the expiry of the time period referred to in subsection (8). 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Non-application of notice requirement under s. 13**

**26.4** Section 13 does not apply to orders under sections 26.1, 26.2 and 26.3. 1998, c. 35, s. 91.

**Appeal to Tribunal, order under s. 26.3**

**26.5** (1) Where the Director has made an order under section 26.3, any person to whom the order is directed may, by written notice served on the Director and the Tribunal within 15 days after service on the person of a copy of the order require a hearing by the Tribunal. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Extension of time for requiring hearing**

(2) The Tribunal may extend the time for giving notice under subsection (1) where it is satisfied that there are reasonable grounds for the extension and that there are apparent grounds for granting relief. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Same**

(3) The Tribunal may give such directions as it considers proper consequent on the extension. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Effect of Director's order**

(4) Section 143 of the *Environmental Protection Act* applies with necessary modifications to orders made under section 26.3 of this Act. 1998, c. 35, s. 91.

**Examination of documentary evidence**

(5) The person requiring the hearing by the Tribunal shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Rules governing Tribunal hearings**

(6) Subsections 14 (4) to (8) apply to hearings under this section. 1998, c. 35, s. 91.

**Parties**

(7) The Director, the person requiring the hearing and any other person specified by the Tribunal are parties to the hearing. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Powers of Tribunal**

(8) The Tribunal may by order confirm, alter or revoke the order of the Director and for the purpose the Tribunal may substitute its own opinion for that of the Director. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Appeals from Tribunal hearings**

(9) Section 15 applies to decisions of the Tribunal under this section. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

**Stop order**

**27.** (1) Where the Director or a provincial officer is of the opinion, upon reasonable and probable grounds, that an emergency exists by reason of,

- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of the quality of the environment for any use that is being or is likely to be made of it;
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life; or
- (d) the rendering or the immediate risk of rendering directly or indirectly any property or plant or animal life unfit for use by humans,

consequent upon the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide, the Director or provincial officer, as the case may be, may make an oral or written stop order directed to the person responsible for the pesticide or the substance or thing containing the pesticide ordering such person to stop

immediately the handling, storage, use, disposal, transportation or display of the pesticide or the substance or thing containing the pesticide either permanently or for a specific period of time. R.S.O. 1990, c. P.11, s. 27 (1).

**Immediate appeal**

(2) A person who is affected by a stop order made by a provincial officer under subsection (1) may appeal therefrom in person or by a person authorized under the *Law Society Act* to represent the person affected and by telephone or otherwise to the Director and the Director, after receiving the submissions of the person and of the provincial officer, shall vary, rescind or confirm the stop order of the provincial officer. R.S.O. 1990, c. P.11, s. 27 (2); 2006, c. 21, Sched. C, s. 129 (2).

**Written reasons for order**

(3) Where the Director makes a stop order or varies or confirms a stop order under subsection (2), the Director shall forthwith thereafter serve or cause to be served a written copy of the stop order or a written copy of the stop order as varied or confirmed, as the case requires, together with written reasons therefor, upon the person to whom the stop order or the stop order as varied or confirmed is directed. R.S.O. 1990, c. P.11, s. 27 (3).

**Public notice**

(4) The Director shall give notice of the stop order or the varied or confirmed stop order, together with written reasons therefor, to the municipality in which the emergency exists and to the public in such manner as the Director considers appropriate. R.S.O. 1990, c. P.11, s. 27 (4).

**Notice**

(5) A stop order, or a stop order as varied or confirmed under subsection (3) shall state that the person to whom it is directed is entitled to a hearing by the Tribunal if the person mails or delivers to the Director and the Tribunal, within fifteen days after a copy of the stop order, or the stop order as varied or confirmed, under subsection (3), is served on the person, notice in writing requiring a hearing. R.S.O. 1990, c. P.11, s. 27 (5); 2000, c. 26, Sched. F, s. 14 (4).

**Effect of stop order**

(6) Even if an appeal is taken against a stop order, the stop order is effective at and from the time it is communicated to the person to whom it is directed until confirmed, varied or rescinded on appeal and such person shall comply with the stop order immediately. R.S.O. 1990, c. P.11, s. 27 (6).

**Appeal to Tribunal**

(7) Where the Director has made a stop order or has varied or confirmed upon appeal to the Director a stop order made by a provincial officer, any person to whom the order is directed may, by written notice mailed to or served upon the Director and the Tribunal within fifteen days after service upon the person of a copy of the stop order or of the stop order as varied or confirmed, as the case requires, require a hearing by the Tribunal. R.S.O. 1990, c. P.11, s. 27 (7); 2000, c. 26, Sched. F, s. 14 (4).

**Powers of Tribunal where hearing**

(8) Where a person to whom a stop order is directed requires a hearing by the Tribunal in accordance with subsection (7), the Tribunal shall appoint a time and place for and hold the hearing and the Tribunal may by order confirm, alter or rescind the order of the Director and for such purposes the Tribunal may substitute its opinion for that of the Director. R.S.O. 1990, c. P.11, s. 27 (8); 2000, c. 26, Sched. F, s. 14 (4).

**Parties**

(9) The Director, the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. R.S.O. 1990, c. P.11, s. 27 (9); 2000, c. 26, Sched. F, s. 14 (4).

**Procedure**

(10) Subsection 13 (5), subsections 14 (2), (3), (4), (6) and (8) and section 15 apply with necessary modifications to proceedings under this section. R.S.O. 1990, c. P.11, s. 27 (10); 2001, c. 9, Sched. G, s. 7 (5).

**Revocation of stop order**

(11) The Director, by an order, may rescind a stop order and in such case shall serve or cause to be served a copy of the rescinding order upon the person to whom the stop order was directed and shall give notice of the rescinding order to the municipality referred to in subsection (4) and to the public in such manner as the Director considers appropriate. R.S.O. 1990, c. P.11, s. 27 (11).

**Control order**

**28.** (1) Where the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide,

- (a) causes or is likely to cause impairment of the quality of the environment for any use that is being or is likely to be made of it;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life;
- (c) causes or is likely to cause harm or material discomfort to any person;
- (d) adversely affects or is likely to affect adversely the health of any person;
- (e) impairs or is likely to impair the safety of any person;
- (f) renders or is likely to render directly or indirectly any property or plant or animal life unfit for use by humans,

the Director, subject to section 13, may make a control order directed to the person responsible for the pesticide or the substance or thing containing the pesticide.

**Content of control order**

(2) The Director, in a control order, may order the person to whom the order is directed to,

- (a) limit or control the rate of discharge of a pesticide or a substance or thing containing a pesticide into the environment in accordance with the directions set out in the order;
- (b) stop the discharge of a pesticide or a substance or thing containing a pesticide into the environment,
  - (i) permanently,
  - (ii) for a specified period of time, or
  - (iii) in the circumstances set out in the order; and
- (c) comply with any directions set out in the order relating to the manner in which a pesticide or a substance or thing containing a pesticide or the container of either of them may be handled, stored, used, disposed of, transported or displayed.

**Amendment of control order**

(3) The Director, under any of the circumstances set out in subsection (1) and in accordance with subsection (2), by a further order, may amend or vary a control order and sections 13, 14 and 15 apply with necessary modifications.

**Revocation of control order**

(4) The Director, by an order, may rescind a control order and in such case shall serve or cause to be served a copy of the rescinding order upon the person to whom the control order was directed. R.S.O. 1990, c. P.11, s. 28.

**Discharge of pesticide, Director to be notified**

**29.** Every person who discharges a pesticide or a substance or thing containing a pesticide in or into the environment out of the normal course of events that,

- (a) causes or is likely to cause impairment of the quality of the environment for any use that can be made of it;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life;
- (c) causes or is likely to cause harm or material discomfort to any person;
- (d) adversely affects or is likely to adversely affect the health of any person;
- (e) impairs or is likely to impair the safety of any person; or
- (f) renders or is likely to render directly or indirectly any property or plant or animal life unfit for use by humans,

shall forthwith notify the Director. R.S.O. 1990, c. P.11, s. 29.

**Damage repair, cleaning and decontamination**

**Minister may order repair of damage**

**30.** (1) Where any person discharges or causes or permits the discharge of a pesticide or a substance or thing containing a pesticide that causes or is likely to cause injury or damage to or impairment of,

- (a) the quality of the environment for any use that is being or is likely to be made of it;

- (b) any property or water;
- (c) plant or animal life; or
- (d) a person,

the Minister, where he or she is of the opinion that it is in the public interest to do so, may order the person responsible for the pesticide or the substance or thing containing the pesticide to do all things and take all steps within such time or times as may be specified in the order for the purpose of preventing or repairing, as the case requires, such injury or damage or impairment or to restore such quality.

#### **Cleaning and decontamination**

(2) Every person responsible for a pesticide or a substance or thing containing a pesticide shall take such measures and do such things within such time or times with respect to the cleaning and decontamination of the environment, or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder as may be prescribed.

#### **Idem**

(3) No person shall use the environment or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder unless the cleaning and decontamination thereof has been completed in the prescribed manner or has been approved by the Director in writing. R.S.O. 1990, c. P.11, s. 30.

#### **Orders, successors, etc., bound, records**

##### **Successors and assigns**

**31.** (1) An order of a court, the Minister, the Director or a provincial officer under this Act is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed. 2001, c. 17, s. 6 (3).

##### **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. 2001, c. 17, s. 6 (3).

##### **Receivers and trustees**

(3) An order of a court, the Minister, the Director or a provincial officer under this Act that relates to property is binding on a receiver or trustee that holds or administers the property. 2001, c. 17, s. 6 (3).

##### **Limitation**

(4) If, pursuant to subsection (3), 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. 2001, c. 17, s. 6 (3).

##### **Exception**

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

- (a) within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property; or
- (b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 6 (3).

##### **Extension of period**

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

##### **Notice under subs. (5)**

(7) Notice under clause (5) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 19 (7) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3).

## **Index record**

(8) The Ministry shall maintain an alphabetical index record of the names of all persons to whom orders are directed under this Act. 2001, c. 17, s. 6 (3).

### **Expiry of order, etc.**

(9) When an order has expired or is rescinded or set aside, the Ministry shall note that fact in the index record. 2001, c. 17, s. 6 (3).

### **Search of index record**

(10) The Ministry shall, on the request of any person, make a search of the index record and inform the person making the request as to whether or not the name of a particular person appears in the index record and shall permit inspection of any order relating to that person. 2001, c. 17, s. 6 (3).

### **Definitions, ss. 31.1 to 31.6**

**31.1** In this section and in sections 31.2 to 31.6,

“fiduciary” means an executor, administrator, administrator with the will annexed, trustee, guardian of property or attorney for property, but does not include a trustee in bankruptcy or trustee in bankruptcy representative; (“représentant fiduciaire”)

“fiduciary property” means property held or administered by a fiduciary in the capacity of fiduciary, or property in respect of which a fiduciary has powers or duties in the capacity of fiduciary; (“bien fiduciaire”)

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

“municipality” includes a local board, as defined in the *Municipal Affairs Act*, and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganised township or unsurveyed territory; (“municipalité”)

“municipal representative” means, with respect to a municipality, an officer, employee or agent of the municipality, or a lawyer, consultant or other advisor of the municipality who is acting on behalf of the municipality; (“représentant municipal”)

“non-municipal property” means, with respect to a municipality, property that is not owned, leased or occupied by the municipality; (“bien non municipal”)

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

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

“trustee in bankruptcy representative” means, with respect to a trustee in bankruptcy, an officer, director, employee or agent of the trustee in bankruptcy, or a lawyer, consultant or other advisor of the trustee in bankruptcy who is acting on behalf of the trustee in bankruptcy. (“représentant d’un syndic de faillite”) 2001, c. 17, s. 6 (3); 2002, c. 17, Sched. C, s. 22 (1).

### **Interpretation, ss. 31.3 to 31.6**

**31.2** Sections 31.3 to 31.6 shall not be construed as affecting any cause of action that a person would have in the absence of those sections. 2001, c. 17, s. 6 (3).

### **Actions taken by municipalities**

**31.3** (1) For the purposes of this Act, a municipality or a municipal representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display of a pesticide, substance or thing; or
- (b) the person having the charge, management or control of a pesticide, substance or thing. 2001, c. 17, s. 6 (3).

### **Actions**

- (2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to non-municipal property.
2. Any action taken for the purpose of preserving or protecting non-municipal property, including action to,
  - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
  - ii. secure the property by means of locks, gates, fences, security guards or other means, or
  - iii. ensure that the property is insured under a contract of insurance.
3. Any action taken on non-municipal property for the purpose of responding to,
  - i. any danger to the health or safety of any person that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property,
  - ii. any impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property, or
  - iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property.
4. Any action taken with respect to non-municipal property to exercise a right under any Act to collect rent or levy by distress in relation to an unpaid amount.
5. Any action taken on non-municipal property under or for the purpose of Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*.
6. Any action taken on non-municipal property under or for the purpose of the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1997* or an Act prescribed by the regulations referred to in paragraph 6 of subsection 168.12 (2) of the *Environmental Protection Act*.
7. Any other action prescribed by the regulations referred to in paragraph 7 of subsection 168.12 (2) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3); 2002, c. 17, Sched. C, s. 22 (2); 2006, c. 32, Sched. C, s. 46.

**Actions taken by secured creditors**

**31.4** (1) For the purposes of this Act, a secured creditor or a secured creditor representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display of a pesticide, substance or thing; or
- (b) the person having the charge, management or control of a pesticide, substance or thing. 2001, c. 17, s. 6 (3).

**Actions**

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to the secured property.
2. Any action taken for the purpose of preserving or protecting the secured property, including action to,
  - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
  - ii. secure the property by means of locks, gates, fences, security guards or other means,
  - iii. ensure that the property is insured under a contract of insurance, or
  - iv. pay taxes due or collect rents owing with respect to the property.
3. Any action taken on the secured property for the purpose of responding to,
  - i. any danger to the health or safety of any person that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property,

- ii. any impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property, or
  - iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property.
4. Any other action prescribed by the regulations referred to in paragraph 4 of subsection 168.17 (2) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3).

#### **Receivers and trustees in bankruptcy**

**31.5** (1) A receiver or trustee in bankruptcy is not required to comply with any order under this Act that is issued by the Minister, the Director or a provincial officer if the order did not arise from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy, or of a receiver representative or trustee in bankruptcy representative, and,

- (a) not later than 10 days after being served with the order, or within such longer period as may be specified by the Director in the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property to which the order relates; or
- (b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 6 (3).

#### **Notice under subs. (1)**

(2) Notice under clause (1) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 168.20 (8) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3).

#### **Obligations of fiduciaries**

**31.6** If the Minister, the Director or a provincial officer issues an order under any provision of this Act to a fiduciary or fiduciary representative with respect to fiduciary property, the obligation of the fiduciary or fiduciary representative to incur costs to comply with the order is limited to the value of the assets they hold or administer on the date they are served with the order, less their reasonable costs of holding or administering the assets, unless the order arose from the gross negligence or wilful misconduct of the fiduciary or fiduciary representative. 2001, c. 17, s. 6 (3).

#### **The Crown**

**32.** This Act binds the Crown. R.S.O. 1990, c. P.11, s. 32.

#### **Licences or permits not transferable**

**33.** A licence or a permit under this Act is not transferable. R.S.O. 1990, c. P.11, s. 33.

#### **Exemption from regulations, applicants for licence**

**34.** (1) Where, in the opinion of the Director, it is in the public interest to do so, the Director may exempt an applicant for a licence issued by the Director under section 6 or the holder of such a licence from any provision of the regulations and issue a licence to the applicant or modify the licence of the licensee, as the case may be, upon such terms and conditions, or alter or revoke the terms and conditions, as the Director considers necessary. R.S.O. 1990, c. P.11, s. 34.

#### **Exception**

(2) Subsection (1) does not authorize the Director to exempt a person from a provision of a regulation made with respect to section 7.1. 2008, c. 11, s. 4.

#### **Regulations**

**35.** (1) The Lieutenant Governor in Council may make regulations,

- 1. prescribing classes of licences and the requirements for licences and renewals;
- 2. exempting any person or class of persons from this Act or the regulations or any provision thereof and prescribing terms and conditions attaching to any such exemption;
- 3. providing for the issue and renewal of licences and prescribing fees therefor;
- 4. prescribing expiry dates or the method of determining the expiry dates of licences or any class of licences;
- 5. providing for the issue of permits, prescribing fees therefor and the requirements therefor;

6. prescribing terms and conditions with respect to sales, offers to sell, transfers or premises in, on or from which sales, offers to sell or transfers of a pesticide are or will be made that shall attach to any class of licence;
7. providing for the examination of applicants for permits and licences and renewals of licences, and prescribing fees for such examinations;
8. providing for the appointment of examiners for applicants for licences and permits, the period for which such appointments may be made and the remuneration of examiners;
9. requiring applicants for licences to undergo medical examinations;
10. prescribing the procedures, conditions and notices for exterminations and for the airing out of buildings, structures and vehicles;
11. fixing the amount and type of insurance or bond that shall be carried or furnished by operators and prescribing the form, requirements and terms thereof;
12. prescribing pesticides, classes of pesticides and conditions of use for the purpose of section 7;
13. prescribing that a type or class of structural extermination may be deemed a land extermination and prescribing that a type or class of land extermination may be deemed a structural extermination for the purpose of this Act and the regulations;
14. permitting any class of operator or exterminator to perform or to undertake to perform any extermination for which the members of the class are not licensed and prescribing the conditions that shall attach to the permission;
15. exempting any machine, apparatus, equipment, or class thereof, from this Act or the regulations, or any provision thereof;
16. exempting any type or class of building, vehicle or structure from this Act or the regulations or any provision thereof;
17. excluding any land or water from the operation of this Act or the regulations or any provision thereof;
18. regulating or prohibiting the installation, operation, maintenance and use of any machine, apparatus or equipment used for extermination;
19. governing the signs, marking or other identification of vehicles or machines used in exterminations;
20. regulating the construction of any enclosed space or vault in which movable property may be placed during the periods of extermination and airing out;
21. prescribing functions, practices and procedures, tenure of office and remuneration of the Committee;
22. prescribing forms and providing for their use for the purposes of this Act;
23. governing, regulating or prohibiting the use, handling, storage, display or disposal of pesticides;
24. prohibiting or regulating the sale, offering for sale or transfer of pesticides;
- 24.1 classifying pesticides or providing for the classification of pesticides by the Minister or a person designated by the Minister, or by another method of classification, and providing for a means of informing the public of the classifications;
25. prohibiting the holders of any class of licence from using any designated pesticide or class of pesticides;
26. regulating the type of containers and the labelling of containers for pesticides, other than the containers in which pesticides are sold or offered for sale;
27. regulating the disposal of containers of pesticides;
28. prescribing documents or data required to be created, stored and submitted by any person and the methods of creating, storing and submitting the documents and data;
- 28.1 prescribing the location at which documents or data must be created or stored;
- 28.2 providing for the inspection and examination of documents and data;
- 28.3 providing for the preparation and signing of documents by electronic means, the filing of documents by direct electronic transmission and the printing of documents filed by direct electronic transmission;
29. exempting any plant or animal life, organism, substance or thing or any class of any of them or any quantity or concentration of any organism or substance from this Act or the regulations or any provision thereof;

30. respecting premises on, in or from which any pesticide or class of pesticide is sold, offered for sale or transferred;
31. regulating and controlling, for the purpose of preventing or reducing the contamination by pesticides of the environment, property, plant or animal life, or of any person, the transportation of any designated pesticide or class of pesticides by any vehicle operated on any highway or road or the transportation of any designated pesticide or class of pesticides together with any commodity or class of commodities by a vehicle operated on any highway or road;
32. prohibiting the transportation of any designated pesticide or class of pesticides together with any commodity or class of commodity by a vehicle operated on any highway or road;
33. prescribing the records to be kept by persons responsible for the transportation of any designated pesticide or class of pesticides by a vehicle operated on a highway or road;
34. requiring, regulating or prohibiting the removal or disposal of any substance or thing that has come into contact with any pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder;
35. requiring and prescribing measures to be taken and things to be done with respect to the cleaning and decontamination of the environment or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder and the time or times within which such measures shall be taken and things done;
36. providing for the method of service of any document given, served or delivered under this Act;
37. deeming a person to be a person involved in carrying out a program of the Ministry for the purpose of subsection 17 (5);
38. prescribing pesticides for the purpose of subsection 7.1 (1) or (4);
39. defining golf courses for the purpose of paragraph 1 of subsection 7.1 (2);
40. defining agriculture for the purpose of paragraph 2 of subsection 7.1 (2);
41. defining forestry for the purpose of paragraph 3 of subsection 7.1 (2);
42. defining promotion of public health or safety for the purpose of paragraph 4 of subsection 7.1 (2);
43. prescribing uses for the purpose of paragraph 5 of subsection 7.1 (2);
44. prescribing conditions that must be met for paragraph 1 or 5 of subsection 7.1 (2) to apply;
45. prescribing requirements that must be complied with for the purpose of subsection 7.1 (3);
46. prescribing sales, offers to sell or transfers to which subsection 7.1 (4) does not apply;
47. providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in relation to section 7.1;
48. prescribing municipal by-laws to which subsection 7.1 (5) does not apply;
49. prescribing or respecting any matter that this Act refers to as a matter prescribed by the regulations or as otherwise dealt with by the regulations. R.S.O. 1990, c. P.11, s. 35; 1997, c. 37, s. 5 (5, 6); 1998, c. 35, s. 92; 2001, c. 9, Sched. G, s. 7 (9); 2008, c. 11, s. 5 (1); 2009, c. 33, Sched. 15, s. 9 (5).

**Pesticides prescribed for s. 7.1**

(2) A regulation made under paragraph 38 of subsection (1) shall not prescribe a pesticide unless the pesticide may be used for a cosmetic purpose. 2008, c. 11, s. 5 (2).

**Municipal by-laws to which s. 7.1 (5) does not apply**

(3) A regulation made under paragraph 48 of subsection (1) shall not prescribe a municipal by-law unless the passing of the by-law is required under an Act. 2008, c. 11, s. 5 (2).

**Scope of regulations**

**36.** (1) Any regulation may be general or particular in its application and may be limited as to time or place or both. R.S.O. 1990, c. P.11, s. 36 (1).

**Adoption of codes in regulations**

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted. R.S.O. 1990, c. P.11, s. 36 (2).

#### **Amendments to adopted codes**

(3) A code, formula, standard or procedure adopted by reference under subsection (2) may be adopted as amended from time to time. 2009, c. 33, Sched. 15, s. 9 (6).

#### **When amendments effective**

(4) The adoption of an amendment to a document that has been adopted by reference comes into effect upon the Ministry publishing notice of the amendment in *The Ontario Gazette* or in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*. 2009, c. 33, Sched. 15, s. 9 (6).

#### **Fees**

**37.** The Minister may establish and require the payment of fees in respect of any matter under this Act, specify to whom the fees are paid, provide for the retention of all or part of the fees by the person to whom they are paid and provide for the refund of fees. 2001, c. 9, Sched. G, s. 7 (10).

#### **Service**

**38.** (1) Any document given, served or delivered under this Act is sufficiently given, served or delivered if it is,

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

#### **When service deemed made**

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the document until a later date. 1998, c. 35, s. 93.

#### **Enforcement of performance of things required to be done**

**39.** Where the Minister or the Director has authority to order or require that any matter or thing be done, the Minister may order that, in default of its being done by the person ordered or required to do it, such matter or thing shall be done at the expense of such person, and the Minister may recover the cost of doing it, with costs, by action in a court of competent jurisdiction as a debt due to the Crown by such person. R.S.O. 1990, c. P.11, s. 39.

**40.** REPEALED: 1998, c. 35, s. 94.

#### **Presiding judge**

**41.** The Crown, by notice to the clerk of the Ontario Court of Justice, may require that a provincial judge preside over a proceeding in respect of an offence under this Act. R.S.O. 1990, c. P.11, s. 41; 2001, c. 9, Sched. G, s. 7 (11); 2006, c. 21, Sched. C, s. 129 (3).

#### **Offences**

##### **Contravention of Act or regulations**

**42.** (1) Every person who contravenes this Act or a regulation is guilty of an offence. R.S.O. 1990, c. P.11, s. 42 (1).

##### **Offence, orders**

(2) Every person who fails to comply with an order under this Act is guilty of an offence. R.S.O. 1990, c. P.11, s. 42 (2).

##### **Offence, licence or permit**

(3) Every person who fails to comply with a term or condition of a licence or permit made or issued under this Act is guilty of an offence. R.S.O. 1990, c. P.11, s. 42 (3).

##### **Offence re fees**

(4) Every person who fails to pay a fee that the person is required to pay under section 37 is guilty of an offence. 2001, c. 9, Sched. G, s. 7 (14).

#### **Penalties, general**

#### **Individuals**

- 43.** (1) Every individual convicted of an offence under this Act is liable,
- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$20,000; and
  - (b) on each subsequent conviction,
    - (i) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000,
    - (ii) to imprisonment for a term of not more than one year, or
    - (iii) to both such fine and imprisonment.

#### **Corporations**

- (2) Every corporation convicted of an offence under this Act is liable,
- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$100,000; and
  - (b) on each subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$200,000. 1998, c. 35, s. 96.

#### **Penalty re monetary benefit**

**44.** The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided. R.S.O. 1990, c. P.11, s. 44.

#### **Penalties, more serious offences**

##### **Application of subs. (2) and (3)**

- 45.** (1) Subsections (2) and (3) apply to the following offences:
- 1. An offence under subsection 42 (1) or 49 (2) that posed, poses or may pose a risk of an effect mentioned in subsection 49 (3).
  - 2. An offence under subsection 42 (2), other than an offence of failing to comply with an order under section 27.
  - 3. An offence of contravening section 17.
  - 4. An offence under subsection 42 (3). 1998, c. 35, s. 97 (1); 2000, c. 22, s. 3 (3).

##### **Corporations, subs. (1)**

(2) Every corporation convicted of an offence described in subsection (1) is liable, in substitution for any penalty provided in section 43, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$250,000 on a first conviction and not more than \$500,000 on each subsequent conviction. 1998, c. 35, s. 97 (1).

##### **Individuals, subs. (1)**

- (3) Every individual convicted of an offence described in subsection (1) is liable, in substitution for any penalty provided in section 43,
- (a) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000 on a first conviction and not more than \$100,000 on each subsequent conviction;
  - (b) to imprisonment for a term of not more than one year; or
  - (c) to both such fine and imprisonment. 1998, c. 35, s. 97 (1).

##### **Application of subs. (3.1) and (3.2)**

- (3.0.1) Subsections (3.1) and (3.2) apply to the following offences:
- 1. An offence under this Act that causes an effect mentioned in subsection 49 (3).
  - 2. An offence of failing to comply with an order under section 27. 2000, c. 22, s. 3 (4).

##### **Corporations, subs. (3.0.1)**

(3.1) Every corporation convicted of an offence described in subsection (3.0.1) is liable, in substitution for any penalty elsewhere provided, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$6,000,000 on a first conviction and not more than \$10,000,000 on each subsequent conviction. 1998, c. 35, s. 97 (1); 2000, c. 22, s. 3 (5).

**Individuals, subs. (3.0.1)**

(3.2) Every individual convicted of an offence described in subsection (3.0.1) is liable, in substitution for any penalty elsewhere provided,

- (a) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$4,000,000 on a first conviction and not more than \$6,000,000 on each subsequent conviction;
- (b) to imprisonment for a term of not more than five years less one day; or
- (c) to both such fine and imprisonment. 1998, c. 35, s. 97 (1); 2000, c. 22, s. 3 (6).

**Subsequent conviction**

(4) For the purposes of determining the penalty to which a person is liable under section 43 or under this section, 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;
- (b.1) the *Nutrient Management Act, 2002*;
- (c) the *Ontario Water Resources Act*;
- (d) the *Safe Drinking Water Act, 2002*; or
- (e) the *Toxics Reduction Act, 2009*. 1998, c. 35, s. 97 (2); 2002, c. 4, s. 66 (3); 2009, c. 19, s. 71 (8).

**Order to prevent damage, etc.**

**46.** (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person,

- (a) to take such action as the court directs, including but not limited to providing an alternate water supply, within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is in any way connected to the commission of the offence; and
- (b) to comply with any order that the 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. 1998, c. 35, s. 98 (1).

**Other conditions**

(2) An order under subsection (1) may contain such other conditions relating to the circumstances of the offence and of the person that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation. R.S.O. 1990, c. P.11, s. 46 (2); 2006, c. 19, Sched. K, s. 4.

**Variation of order**

(3) The court that made an order under subsection (1) may make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances,

- (a) on its own initiative at any time; or
- (b) on application by counsel for the prosecutor, by the person convicted or by the person authorized under the *Law Society Act* to represent the person convicted, with notice to the other party, after a hearing or, with the consent of the parties, without a hearing. 2006, c. 21, Sched. C, s. 129 (4).

**Conflict**

(4) Nothing in subsection (1) authorizes the making of an order that conflicts with an order previously made under this Act by the Minister or the Director, but an order may be made under subsection (1) supplementing the provisions of an order in respect of the prevention, decrease or elimination of harm to the environment and the restoration of the environment. R.S.O. 1990, c. P.11, s. 46 (4).

- (5) REPEALED: 1998, c. 35, s. 98 (2).

#### **Continuation in force**

(6) Where a person bound by an order under subsection (1) is imprisoned, the order continues in force except in so far as the imprisonment renders it impossible for the person to comply for the time being with the order. R.S.O. 1990, c. P.11, s. 46 (6).

#### **Restitution orders**

**46.1** (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may make an order for restitution against the person convicted of the offence, requiring the person to pay another person for reasonable expenses actually incurred by the other person on account of damage to property in which the other person has an interest that results from or is in any way connected to the commission of the offence, in such amount and on such terms and conditions as the court considers just. 1998, c. 35, s. 99.

#### **Expenses incurred, interpretation**

- (2) For the purposes of subsection (1), expenses are incurred on account of damage to property if they are incurred,
- (a) to prevent, eliminate or ameliorate the damage;
  - (b) to replace the property that suffered the damage; or
  - (c) to restore the property to the state that it was in before the damage. 1998, c. 35, s. 99.

#### **Same**

(3) For greater certainty, for the purposes of clause (2) (a), expenses incurred to provide an alternate water supply may be expenses incurred to prevent, eliminate or ameliorate damage. 1998, c. 35, s. 99.

#### **Amount of order**

(4) The amount of the order for restitution shall not exceed the replacement value of the property as of the date the order is issued. 1998, c. 35, s. 99.

#### **No restitution to person who committed offence**

- (5) The court shall not make an order for restitution in favour of any person on account of damage that is the result of,
- (a) the commission of an offence by the person; or
  - (b) a contravention or failure in respect of which a notice under section 41.1 has been served on the person requiring the person to pay an administrative penalty, unless the requirement to pay the administrative penalty has been rescinded. 1998, c. 35, s. 99.

#### **Notification of order**

(6) Where a court makes an order for restitution, it shall cause a copy of the order or a notice of the content of the order to be given to the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 99.

#### **Filing of order in court**

(7) An order for restitution may be filed with a local registrar of the Superior Court of Justice and the responsibility for filing shall be on the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 99; 2001, c. 9, Sched. G, s. 7 (17).

#### **Enforcement of order**

(8) An order for restitution filed under subsection (7) may be enforced as if it were an order of the court. 1998, c. 35, s. 99.

#### **Same**

(9) Section 129 of the *Courts of Justice Act* applies in respect of an order for restitution filed under subsection (7) and, for the purpose, the date of filing shall be deemed to be the date of the order. 1998, c. 35, s. 99.

#### **Civil remedy**

(10) A civil remedy for an act or omission is not affected by reason only that an order for restitution under this section has been made in respect of that act or omission. 1998, c. 35, s. 99.

#### **Forfeiture on conviction**

**46.2** (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may, if conviction is in relation to an offence in connection with which a thing has been seized under section 22 or 23 or under a warrant issued under the *Provincial Offences Act*, order that the thing be forfeited to the Crown. 1998, c. 35, s. 99.

**Same**

- (2) The court shall not make an order under subsection (1) unless the court is satisfied that,
- (a) the seizure of the thing was lawful; and
  - (b) no later than seven days before the hearing of the request, written notice was provided by a provincial officer,
    - (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
    - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,
    - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
    - (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 99.

**Contents of notice**

- (3) Notice under subsection (2) shall include,
- (a) a description of the thing seized sufficient to enable it to be identified;
  - (b) the location at which the thing was seized;
  - (c) the date of the seizure;
  - (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
  - (e) a statement of the reason for the seizure;
  - (f) a reference to the statutory provision authorizing the seizure;
  - (g) a statement that an order for forfeiture of the thing is being sought under this section; and
  - (h) a statement that the person to whom the notice is provided may make submissions to the court with respect to the issuance of an order under this section. 1998, c. 35, s. 99.

**Disposition of things forfeited**

- (4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 99.

**Relief against forfeiture**

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

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 99; 2001, c. 9, Sched. G, s. 7 (17).

**When relief not to be ordered**

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with a notice under section 41.1 requiring the person to pay an administrative penalty in connection with a matter that was associated with the seizure of the thing, unless the requirement to pay the administrative penalty is rescinded under section 41.1; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 99.

**Where fine not paid**

- 46.3** (1) Where a person is convicted of an offence under this Act and a fine is imposed,

- (a) a thing seized in connection with the offence and not forfeited to the Crown under section 24.1, 24.3 or 46.2 shall not be returned until the fine has been paid; and
- (b) if payment of the fine is in default within the meaning of section 69 of the *Provincial Offences Act*, a justice may order that the thing be forfeited to the Crown.

**Application of subs. 46.2 (2) to (6)**

(2) Subsections 46.2 (2) to (6) apply with necessary modifications in relation to an order under clause (1) (b). 1998, c. 35, s. 99.

**Costs of seizure, etc.**

**46.4** If a person is convicted of an offence under this Act, the justice may, in addition to any other penalty, order the person to pay all or part of the expenses incurred by the Ministry with respect to the seizure, storage or disposition of any thing seized in connection with the offence. 1998, c. 35, s. 99.

**Suspension for default in payment of fine**

**47.** (1) Where a person is in default of payment of a fine imposed upon conviction for an offence against this Act, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Safe Drinking Water Act, 2002*, the *Toxics Reduction Act, 2009* or the regulations made under any of them, on the application of the Director, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that,

- (a) one or more of the person's licences be suspended; and
- (b) no licence be issued to the person,

until the fine is paid. R.S.O. 1990, c. P.11, s. 47 (1); 2002, c. 4, s. 66 (4); 2009, c. 19, s. 71 (9).

**Duty of Director**

(2) The Director shall,

- (a) on being informed of an outstanding order referred to in subsection (1), suspend the person's licence, if it is not already suspended under another order referred to in subsection (1); and
- (b) on being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the licence are paid, reinstate the licence, unless the Director has been informed that,
  - (i) there is another outstanding order referred to in subsection (1) directing that the licence be suspended, or
  - (ii) the licence is suspended under any other order or under another statute. R.S.O. 1990, c. P.11, s. 47 (2).

**Regulations**

(3) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section. R.S.O. 1990, c. P.11, s. 47 (3).

**Definition**

(4) In this section,

"licence" means a licence or permit under this Act or the regulations. R.S.O. 1990, c. P.11, s. 47 (4).

**Limitation**

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

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a provincial officer or Director. 2009, c. 33, Sched. 15, s. 9 (7).

**Same**

(2) Clause (1) (b) does not apply in respect of offences committed before the day this section comes into force. 2009, c. 33, Sched. 15, s. 9 (7).

**Duty of director or officer of corporation**

**49.** (1) Every director or officer of a corporation that engages in an activity that may cause an effect mentioned in subsection (3) contrary to this Act or the regulations has a duty to take all reasonable care to prevent the corporation from causing or permitting such unlawful effect.

**Offence**

(2) Every person who has a duty under subsection (1) and who fails to carry out that duty is guilty of an offence.

**Effects**

(3) The effect referred to in subsection (1) is any one or more of,

(a) impairment of the quality of the environment for any use that can be made of it;

(b) injury or damage to property or plant or animal life;

(c) harm or material discomfort to any person;

(d) an adverse effect on the health of any person;

(e) impairment of the safety of any person; or

(f) directly or indirectly rendering any property or plant or animal life unfit for human use,

from a pesticide or any substance or thing containing a pesticide to a greater degree than would necessarily result from the proper use or storage of the pesticide.

**Liability to conviction**

(4) A director or officer of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted or convicted. R.S.O. 1990, c. P.11, s. 49.

**Service of offence notice, etc., offences re: vehicles**

**50.** (1) In this section,

“commercial motor vehicle” and “motor vehicle” have the same meanings as in the *Highway Traffic Act*; (“véhicule utilitaire”, “véhicule automobile”)

“offence notice or summons” means,

(a) an offence notice or summons under Part I of the *Provincial Offences Act*, or

(b) a summons under Part III of the *Provincial Offences Act*. (“avis d’infraction ou assignation”) R.S.O. 1990, c. P.11, s. 50 (1); 1998, c. 35, s. 100 (1).

**Service of offence notice or summons**

(2) Delivery of an offence notice or summons to the operator of a commercial motor vehicle in respect of an offence under this Act related to the use of the vehicle shall be deemed to be personal service of the offence notice or summons on the owner or lessee of the vehicle who is named in the offence notice or summons. R.S.O. 1990, c. P.11, s. 50 (2).

**Employer**

(3) Delivery of an offence notice or summons to the operator of a motor vehicle in respect of an offence under this Act related to the use of the vehicle in the course of the operator’s employment shall be deemed to be personal service of the offence notice or summons on the employer of the operator of the vehicle. R.S.O. 1990, c. P.11, s. 50 (3).

(4) REPEALED: 1998, c. 35, s. 100 (2).

**Exception**

(5) Subsection (2) does not apply if, at the time of the offence, the vehicle was in the possession of the operator without the consent of the owner or lessee of the vehicle, as the case may be, but the burden of proof of that shall be on the owner or lessee of the vehicle. R.S.O. 1990, c. P.11, s. 50 (5).

**Permit holder deemed owner**

(6) For the purposes of this section, the holder of a permit under Part II of the *Highway Traffic Act* shall be deemed to be the owner of the vehicle referred to in the permit if a number plate under that Part bearing a number that corresponds to the permit was displayed on the vehicle at the time the offence was committed. R.S.O. 1990, c. P.11, s. 50 (6).

**Application of subs. (6)**

(7) Subsection (6) does not apply if the number plate was displayed on the vehicle without the consent of the holder of the permit, but the burden of proof of that shall be on the holder of the permit. R.S.O. 1990, c. P.11, s. 50 (7).

**Service of offence notice, etc., corporations, etc.**

**Service on municipal corporations**

**50.1** (1) Service of an offence notice or summons on a municipal corporation may be effected by delivering it personally to the mayor, warden, reeve or other chief officer of the municipal corporation or to the clerk of the municipal corporation.

**Service on other corporations**

(2) Service of an offence notice or summons on a corporation other than a municipal corporation may be effected by delivering it personally to the manager, secretary or other officer of the corporation or to a person apparently in charge of a branch office of the corporation.

**Service on partnership**

(3) Service of an offence notice or summons on a partnership may be effected by delivering it personally to a partner or to a person apparently in charge of an office of the partnership.

**Service on a sole proprietorship**

(4) Service of an offence notice or summons on a sole proprietorship may be effected by delivering it personally to the sole proprietor or to a person apparently in charge of an office of the sole proprietorship.

**Substituted service**

(5) On application without notice, a justice, on being satisfied that service cannot be made effectively in accordance with subsections (1) to (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the municipal corporation, other corporation, partnership or sole proprietorship. 1998, c. 35, s. 101.

**Official documents, evidence**

**51.** (1) In this section,

“official document” means,

- (a) an approval, certificate, consent, licence, notice, permit, order or return under this Act or the regulations,
- (b) a certificate as to service of a document mentioned in clause (a),
- (c) a certificate or report as to the analysis, description, ingredients, quality, quantity or temperature of any solid, liquid or gas or any combination of any of them,
- (d) a certificate or report as to the analysis, description, quality or quantity of any odour, heat, sound, vibration, radiation or any combination of any of them,
- (e) a certificate or report as to the custody of any solid, liquid or gas or any combination of any of them,
- (f) a certificate as to the custody of any book, record or report or as to the custody of any other document, or
- (g) a certificate as to whether or not any document or notification was received or issued by the Minister or the Ministry under this Act or the regulations.

**Same**

(2) An official document, other than an official document mentioned in clause (1) (c) or (d), that purports to be signed by the Minister or an employee in the Ministry shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document.

**Idem**

(3) An official document mentioned in clause (1) (c), (d) or (e) that purports to be signed by an analyst shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. R.S.O. 1990, c. P.11, s. 51.

**Proceedings to prohibit continuation or repetition of contravention**

**52.** (1) Where any provision of this Act or the regulations or any direction, order, licence or permit made, served, delivered or issued by the Minister or the Director under this Act is contravened, despite any other remedy or any penalty

imposed, the Minister may apply to a judge of the Superior Court of Justice for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Superior Court of Justice. R.S.O. 1990, c. P.11, s. 52 (1); 2001, c. 9, Sched. G, s. 7 (17).

#### **Appeal**

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1990, c. P.11, s. 52 (2).

#### **Power to restrain by order upon conviction**

(3) Upon its own initiative or upon application by counsel for the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other remedy and to any other penalty imposed by law, may make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. R.S.O. 1990, c. P.11, s. 52 (3).

#### **Administrative changes to control orders and permits**

**52.1** The Director may rescind or amend a control order, cancel a permit or alter a term or condition in a permit if the Director is satisfied that the rescission, amendment, cancellation or alteration is in the public interest and is desirable for administrative reasons to,

- (a) reflect changes that have occurred with respect to the identity or description of any person or place; or
- (b) eliminate provisions that are spent or obsolete. 2001, c. 9, Sched. G, s. 7 (16).

#### **Conflict with other legislation**

**53.** Where a conflict appears between this Act or the regulations and any other Act or regulation in a matter related to pesticides and the control of pests, this Act or the regulations shall prevail. R.S.O. 1990, c. P.11, s. 53.

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Back to top