

**Important Information**

(Includes details about the availability of printed and electronic versions of the Statutes.)

# Statutes of Newfoundland 2000

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## **CHAPTER E-14.1**

### **AN ACT RESPECTING ENVIRONMENTAL ASSESSMENT**

*(Assented to May 12, 2000)*

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*Be it enacted by the Lieutenant-Governor and House of Assembly in  
Legislative Session convened, as follows:*

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Short title

**1.** This Act may be cited as the *Environmental Assessment Act, 2000*.

Definitions

**2.** In this Act

(a) "air" means air not enclosed in a building, structure, machine, chimney, stack, flue, tank, pipe or other human made structure;

(b) "board" means an environmental assessment board appointed under section 21;

(c) "class environmental assessment" means a planning process applied to common classes of undertakings where the environmental effects are generally known and are

recurrent;

(d) "committee" means an assessment committee appointed under section 10;

(e) "department", unless the context indicates otherwise, means the department presided over by the minister;

(f) "environment" includes

(i) air, land and water,

(ii) plant and animal life, including human life,

(iii) the social, economic, recreational, cultural and aesthetic conditions and factors that influence the life of humans or a community,

(iv) a building, structure, machine or other device or thing made by humans,

(v) a solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of humans, or

(vi) a part or a combination of those things referred to in subparagraphs (i) to (v) and the interrelationships between 2 or more of them;

(g) "environmental assessment" means a process by which the environmental effect of an undertaking is predicted and evaluated before the undertaking has begun or occurred;

(h) "environmental effect" means a change in the present or future environment that would result from an undertaking;

(i) "environmental impact statement" means a report that presents the results of an environmental assessment;

(j) "environmental preview report" means a report presenting the results of an investigation based on readily available information that supplements the information provided by a proponent upon registration of an undertaking and which is necessary to assist the minister in making a determination as to whether or not an environmental impact statement is required;

(k) "guidelines" means guidelines prepared by a committee under section 11;

(l) "land" includes enclosed land, surface land, land covered by water, subsoil, matter beneath the subsoil or a combination of these;

(m) "minister", unless the context indicates otherwise, means the minister responsible for the administration of this Act under the *Executive Council Act*;

(n) "person" includes an association of persons, a city, municipality and the government of the province;

(o) "proponent" means a person who

(i) carries out or proposes to carry out an undertaking, or

(ii) is the owner or person having charge, control or management of an undertaking;

(p) "undertaking" includes an enterprise, activity, project, structure, work or proposal and a modification, abandonment, demolition, decommissioning, rehabilitation and an extension of them that may, in the opinion of the minister, have a significant environmental effect; and

(q) "water" includes a surface or subterranean source of fresh or salt water within the jurisdiction of the province, whether or not that source usually contains liquid or

frozen water, water above the bed of the sea that is within the jurisdiction of the province, a river, stream, brook, creek, watercourse, lake, pond, spring, lagoon, ravine, gully, canal and other flowing or standing water and land usually or at any time covered by water.

#### Purpose

### 3. The purpose of this Act is to

- (a) facilitate the wise management of the natural resources of the province; and
- (b) protect the environment and quality of life of the people of the province,

through the institution of environmental assessment procedures before and after the commencement of an undertaking that may be potentially damaging to the environment.

#### Application of Act

4. (1) This Act applies to all undertakings carried out in the province, unless it is of a class of undertaking exempted under this Act.

(2) An undertaking to which this Act applies may be designated by regulation.

(3) An undertaking of the government of the province of a type specified in the regulations shall be registered under section 7.

#### Act binds Crown

### 5. The Crown is bound by this Act.

#### Prohibition

6. A person shall not proceed with an undertaking unless that undertaking has been exempted or released under this Act.

#### Registration

7. (1) A proponent shall, in the form that the minister may require and before proceeding with the final design of an undertaking, notify the minister of the proposed undertaking and that notification shall be considered to be a registration of the undertaking under this Act.

(2) A proponent shall pay the required fee with respect to the registration of an undertaking.

#### Undertaking not to proceed

8. (1) The minister shall examine the information provided by the proponent under section 7 to determine if the undertaking is contrary to law or to a policy that the Lieutenant-Governor in Council has declared to be the policy of the government of the province.

(2) The minister shall notify the Lieutenant-Governor in Council of his or her determination under subsection (1) that the undertaking is contrary to law or a policy that the Lieutenant-Governor in Council has declared to be the policy of the government of the province and the Lieutenant-Governor in Council may direct that the undertaking not proceed.

(3) The minister shall, in writing, notify the proponent of a direction under subsection (2), within the time period required by regulation.

#### Determination

9. (1) Where, following an examination by the minister under subsection 8(1), the Lieutenant-Governor in Council does not make a direction under subsection 8(2), the minister, using criteria prescribed by regulation, shall determine whether

- (a) an environmental preview report is required;
- (b) an environmental impact statement is required; or

(c) the undertaking may be released.

(2) The minister shall notify a proponent of an undertaking of his or her determination under subsection (1) within the time period required by regulation.

#### Assessment committees

**10.** (1) The minister shall appoint an assessment committee for the purpose of advising him or her on scientific and technical matters related to an undertaking that requires an environmental preview report or an environmental impact statement under subsection 9(1).

(2) The minister shall appoint to a committee at least one representative from each department of government that has an interest in the undertaking.

(3) The chairperson of a committee shall be an employee of the department.

(4) A committee may provide the consultation and assistance necessary for the purpose of section 20.

#### Guidelines

**11.** (1) A committee is responsible for and shall prepare guidelines for the consideration of the minister with respect to the

(a) environmental preview report; or

(b) environmental impact statement,

required for the undertaking for which the committee was appointed.

(2) The minister shall approve guidelines prepared under subsection (1) before they are provided to the proponent.

#### Environmental preview report

**12.** (1) Where, under section 9, the minister notifies a proponent that an environmental preview report is required, the minister shall provide the proponent with the guidelines needed to prepare the environmental preview report.

(2) The proponent shall, in accordance with the guidelines, prepare and submit to the minister an environmental preview report within the time period required by regulation.

(3) Upon receiving an environmental preview report, the minister shall

(a) require that the proponent provide copies of the environmental preview report to the minister who shall make those copies available to all interested persons; and

(b) examine the report and determine if the environmental preview report complies with this Act and the guidelines,

and shall, in writing, advise the proponent of his or her determination under paragraph (b).

(4) Where, in the opinion of the minister, an environmental preview report is deficient, the minister may require the proponent to

(a) conduct further work;

(b) amend the environmental preview report; or

(c) revise and submit another environmental preview report or amendment to that report,

within the time period required by regulation.

(5) Where, in the opinion of the minister, the environmental preview report complies with this Act

and the guidelines and requires no further work, he or she shall determine whether

- (a) an environmental impact statement is required; or
- (b) the undertaking may be released.

(6) The minister shall notify the proponent of his or her determination under subsection (5) within the time period required by regulation.

(7) A proponent is not required to provide an environmental preview report where the proponent elects to proceed directly with the preparation of an environmental impact statement.

Environmental impact statement required

**13.** (1) Where the minister determines that an environmental impact statement is required under paragraph 9(1)(b) or subsection 12(5) or the proponent elects to proceed with the preparation of an environmental impact statement under subsection 12(7), the minister shall provide the proponent of the undertaking with guidelines and the proponent shall, in accordance with those guidelines, carry out the environmental assessment necessary for the preparation of an environmental impact statement.

(2) An environmental impact statement shall be completed and submitted to the minister within the time period required by regulation.

Release

**14.** Where, under section 9 or 12, the minister notifies a proponent that an undertaking is released, the proponent may proceed with the undertaking subject to

- (a) another Act or regulation of the province or of Canada;
- (b) a municipal by-law or requirement; and
- (c) the terms and conditions that the minister may, in his or her discretion, establish.

Environmental impact statement

**15.** An environmental impact statement shall be prepared in accordance with the guidelines and shall include

- (a) a description of the undertaking;
- (b) the rationale for the undertaking;
- (c) the alternative methods of carrying out the undertaking, and the alternatives to the undertaking;
- (d) a description of the
  - (i) present environment that will be affected or that might reasonably be expected to be affected, directly or indirectly, by the undertaking, and
  - (ii) predicted future condition of the environment that might reasonably be expected to occur within the expected life span of the undertaking, if the undertaking was not approved;
- (e) a description of
  - (i) the effects that would be caused or that might reasonably be expected to be caused to the environment by the undertaking with respect to the descriptions provided under paragraph (d), and
  - (ii) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment by the undertaking;

(f) an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking;

(g) a proposed set of control or remedial measures designed to minimize any or all significant harmful effects identified under paragraph (e);

(h) a proposed program of study designed to monitor all substances and harmful effects that would be produced by the undertaking; and

(i) a proposed program of public information as required under section 16.

Proponent to meet public

**16. (1)** During the preparation of an environmental impact statement, the proponent shall provide an opportunity for interested members of the public to meet with the proponent at a place adjacent to or in the geographical area of the undertaking, or as the minister may determine, in order to

(a) provide information concerning the undertaking to the people whose environment may be affected by the undertaking; and

(b) record and respond to the concerns of the local community regarding the environmental effects of the undertaking.

(2) The procedure for public contact and involvement with the proponent shall be as required by the minister and by regulation.

Public interest

**17. (1)** Where guidelines have been prepared under paragraph 11(1)(b) and before they have been approved under subsection 11(2), the minister shall request that interested persons review those guidelines and submit written comments to the minister with respect to the guidelines.

(2) At any time during an environmental assessment of an undertaking, the minister may request that interested persons submit written comments with respect to the environmental effects of that undertaking.

(3) The minister may forward written comments submitted to him or her under subsection (2) to the proponent who shall respond to those comments.

Statement received

**18. (1)** Upon receiving the environmental impact statement submitted under section 13, the minister shall

(a) require that the proponent provide copies of the environmental impact statement to the minister who shall make those copies available to all interested persons; and

(b) examine the statement and determine, in his or her discretion, whether or not it complies with this Act and the guidelines.

(2) The minister shall, in writing, advise the proponent of his or her determination under paragraph (1)(b).

Statement deficient

**19.** Where, in the opinion of the minister, an environmental impact statement is deficient, the minister may require the proponent to

(a) conduct further work;

(b) amend the environmental impact statement; or

(c) revise and submit another environmental impact statement or amendment to that statement,

within the time period required by regulation.

#### Consultation

**20.** The minister shall, in the course of granting an approval or making a determination under section 8, 9, 11, 12 or 18 make every reasonable effort to consult with and obtain the opinions of all other ministers of the Crown whose departments may have an interest in an undertaking that may be subject to an environmental assessment.

#### Board

**21.** (1) Where the minister believes there is a strong public interest in an undertaking for which an environmental impact statement is required, the Lieutenant-Governor in Council may, on the advice of the minister, order public hearings and appoint an environmental assessment board for the purpose of conducting public hearings relating to the environmental assessment of the undertaking.

(2) The Lieutenant-Governor in Council shall appoint to a board not fewer than 2 nor more than 5 persons.

(3) A person appointed under subsection (2) shall not be employed in the public service of the province or of Canada.

(4) The Lieutenant-Governor in Council shall designate from among the members of each board a chairperson who shall not be a resident of the geographical area of the undertaking.

(5) At least 1/3 of the members of each board shall be residents of the geographical area of the undertaking.

(6) Members of each board shall receive remuneration and be reimbursed for expenses in the manner that the Lieutenant-Governor in Council may establish.

#### Public hearing

**22.** (1) A public hearing ordered under subsection 21(1) shall be conducted for the purpose of

(a) examining the contents of the environmental impact statement that has been prepared for an undertaking; and

(b) exchanging information between the proponent and the public.

(2) A public hearing ordered under subsection 21(1) shall be held within or adjacent to the geographical area of the undertaking and wherever the minister considers appropriate.

(3) The minister and the proponent shall be represented at a public hearing of a board.

(4) At a public hearing a board shall

(a) record comments and questions of persons present regarding the content of the environmental impact statement prepared for an undertaking; and

(b) provide, where possible, answers to questions from the persons present.

(5) A public hearing of a board shall be conducted in the manner prescribed by the regulations.

#### Report of hearing

**23.** The chairperson of a board shall, within the time period required by regulation, submit to the minister a written report containing the

(a) proceedings of a public hearing;

(b) recommendations made at a public hearing; and

(c) recommendations of the board.

**24.** (1) Upon receiving a report submitted under section 23, the minister shall submit copies of the report to the Lieutenant-Governor in Council.

(2) The minister shall, within the time period required by regulation, after receiving the report submitted under section 23, make a copy of the report available to interested persons.

(3) The manner of distribution of a report to interested persons under subsection (2) shall be in the discretion of the minister.

Release

**25.** (1) Where a public hearing has not been ordered under subsection 21(1) and, in the opinion of the minister, an environmental impact statement has been completed and complies with this Act and the guidelines, the minister shall recommend to the Lieutenant-Governor in Council that the undertaking

(a) be released subject to terms and conditions; or

(b) not be permitted to proceed.

(2) Where a report has been delivered to the Lieutenant-Governor in Council under subsection 24(1) and, in the opinion of the minister, an environmental impact statement has been completed and complies with this Act and the guidelines, the minister shall recommend to the Lieutenant-Governor in Council that the undertaking

(a) be released subject to terms and conditions; or

(b) not be permitted to proceed.

(3) Upon receipt of a recommendation under subsection (1) or (2), the Lieutenant-Governor in Council, in its discretion, may

(a) release the undertaking subject to terms and conditions that the Lieutenant-Governor in Council may, in its discretion, specify; or

(b) direct that the undertaking not proceed.

(4) Notwithstanding subsection (1), (2) or (3), or another section of this Act, and subject to the approval of the Lieutenant-Governor in Council, the minister may halt further environmental assessment of an undertaking and direct that the undertaking not proceed where he or she is of the opinion that an unacceptable environmental effect is indicated.

(5) Notwithstanding subsection (1), (2) or (3), or another section of this Act, the Lieutenant-Governor in Council may halt further environmental assessment of an undertaking and direct that the undertaking not proceed where the Lieutenant-Governor in Council is of the opinion that it is in the public interest to halt the assessment and make that direction.

Authorization

**26.** (1) A licence, permit, approval or other document of authorization issued under another Act pertaining to an undertaking shall not be issued until the undertaking has been exempted or released under this Act.

(2) This Act does not exempt a proponent of an undertaking from the requirements imposed upon an undertaking by

(a) another Act or regulation of the province or of Canada; or

(b) a municipal by-law or requirement.

Monitoring

**27.** Where an undertaking has been exempted or released under this Act, the minister may require the proponent to carry out environmental monitoring and rehabilitation studies and programs in

order to determine the effectiveness of mitigation measures, compliance with terms and conditions applicable to the release and to restore the affected environment to ecologically and socially acceptable levels.

#### Exemption

**28.** Where the minister is of the opinion that it is in the public interest, having regard to the purpose of this Act and weighing the purpose of this Act against the injury, damage or interference that might be caused a person or property by the application of this Act to an undertaking, the minister, with the approval of the Lieutenant-Governor in Council, may by order

(a) exempt an undertaking or a proponent of an undertaking from the application of this Act or the regulations or a matter provided for in this Act, subject to the terms and conditions that the minister may, in his or her discretion, impose;

(b) suspend or revoke an exemption referred to in paragraph (a); or

(c) alter or revoke a term or condition of an exemption referred to in paragraph (a).

#### Non disclosure

**29.** Where the minister is of the opinion that the disclosure of certain documents or matters is not in the public interest, the minister may make the provision for the protection of the public interest that he or she considers necessary and may decline to disclose those documents or matters.

#### Agreements

**30.** (1) Notwithstanding section 4, the minister may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with the government of another province or territory, of Canada, or with a combination of them, with respect to an environmental assessment of an undertaking.

(2) Notwithstanding section 4, the minister may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with the government of another province or territory, of Canada, or with a combination of them, with respect to the conduct of environmental assessments in accordance with a uniformly applied process.

(3) Where an agreement is entered into under this section, this Act or a provision of this Act, or the regulations, shall apply in accordance with the agreement only and the process established by that agreement shall be considered to satisfy the requirements of this Act or the regulations.

(4) The Lieutenant-Governor in Council may, in its discretion,

(a) release an undertaking that is the subject of an agreement made under this section subject to terms and conditions that the Lieutenant-Governor in Council considers necessary; or

(b) direct that the undertaking not proceed.

(5) Where an agreement is entered into under this section, an undertaking that is subject to that agreement shall not proceed unless the Lieutenant-Governor in Council has released that undertaking.

#### Joint review panel

**31.** (1) The Lieutenant-Governor in Council may establish a review panel jointly with the government of another province or territory of Canada, or with a combination of them, to carry out an environmental assessment in accordance with an agreement made under section 30.

(2) The proponent shall pay the costs incurred by the Crown with respect to the conduct of an environmental assessment of an undertaking carried out in accordance with an agreement made under section 30 and under a review panel established under subsection (1).

#### Costs

**32.** (1) A proponent of an undertaking having a projected capital cost greater than \$15 million shall pay the fees that the minister may set to offset the costs incurred by the Crown with respect to the conduct of an environmental assessment in connection with the undertaking.

(2) Notwithstanding subsection (1), where a fee does not cover the costs incurred by the Crown, the proponent shall pay those costs owed to the Crown with respect to the environmental assessment of the proponent's undertaking that the minister may require.

(3) Where a proponent does not pay the fees referred to in subsection (1) or the costs referred to in subsection (2), the minister may direct that an environmental assessment cease until the minister notifies the proponent that the assessment may proceed.

(4) For the purpose of this section and section 31, "costs" includes the cost and expense of consultants, lodging, meals, salaries, remuneration and travel incurred by the government of the province, and a board or committee, with respect to the conduct of an environmental assessment of an undertaking.

Action barred

**33.** (1) An officer or employee of the department, a member of a board or committee or other person authorized under this Act or the regulations is not personally liable in an action or a proceeding for or with respect to an act or thing done or omitted by him or her in good faith in the exercise or purported exercise of his or her duties or powers under this Act or the regulations, or for costs in connection with an action or proceeding.

(2) Notwithstanding subsection 5(4) of the *Proceedings Against the Crown Act*, the liability of the Crown with respect to anything done or omitted to be done by an officer or an employee of the department, a member of a board or committee or other person in the performance of his or her duties under this Act or the regulations is the same as if subsection (1) were not in force.

Order

**34.** (1) Where the minister believes on reasonable grounds that a person has contravened this Act, the regulations or the terms or conditions applicable to an undertaking exempted or released under this Act or the regulations, the minister may issue an order requiring a person, at that person's own expense, to

(a) stop or shut down an undertaking; and

(b) do all things and take all steps necessary to comply with this Act, the regulations and the terms or conditions applicable to the undertaking, in accordance with directions set out in the order,

and the minister shall serve on the person a copy of the order and a statement showing the reasons for the making of the order and upon receipt of the copy and statement, the person shall comply with that order.

(2) In addition to an order that the minister may make under subsection (1), the minister may make an order directing the person referred to in that subsection to

(a) take the action the minister considers necessary to remedy or prevent an environmental effect; and

(b) post a bond or other form of security acceptable to the minister or pay money to the Crown in an amount that will ensure compliance with an order made under this section.

(3) The minister may authorize an official, officer or employee of the department to issue an order under subsection (1) or (2).

(4) An order made under this section remains in effect until it is revoked by the minister.

Amendment and revocation of order

**35.** (1) The minister may, with respect to an order made under section 34,

(a) amend a term or condition of, add a term or condition to, or delete a term or condition from an order;

(b) revoke an order; and

(c) correct a typographical error in an order.

(2) A copy of an order amended, corrected or revoked under subsection (1) shall be served within the time required by regulation on the person to whom the original order was directed and served.

#### Appeal

**36.** (1) A proponent or other person aggrieved by an order made under section 34 may, within 30 days from the date of the order, appeal against the order to a judge of the Trial Division by filing a notice of appeal in the office of the Registrar of the Supreme Court and by serving a copy of the notice of appeal on the minister or deputy minister.

(2) Notwithstanding a rule or practice to the contrary, a notice of appeal shall

(a) set out in detail the allegations of the appellant and the grounds upon which the order is appealed against; and

(b) be signed by the appellant or the appellant's solicitor.

(3) An appellant shall, within 14 days after the service of the notice of appeal under this section, apply to a judge for the appointment of a day for the hearing of the appeal and shall, not fewer than 14 days before the hearing, serve upon the minister or deputy minister a written notice of the day appointed for the hearing.

(4) The minister shall produce before the judge hearing the appeal all papers and documents in his or her possession affecting the matter of the appeal.

(5) The judge shall hear the appeal and the evidence brought forward by the appellant and the Crown in a summary manner and shall decide the matter of the appeal by

(a) upholding, amending or revoking the order; or

(b) making another decision that judge considers proper in the circumstance.

(6) A judge may make an order as to costs for or against the appellant or the Crown and may fix the amount of those costs.

(7) An appeal may be taken from a decision of a judge of the Trial Division to the Court of Appeal on a point of law raised upon the hearing of the appeal by the judge of the Trial Division.

(8) The filing of a notice of appeal under subsection (1) shall not affect the order appealed from and the order shall remain in force pending the outcome of the appeal.

#### Regulations

**37.** The Lieutenant-Governor in Council may make regulations

(a) defining a word for the purpose of the Act;

(b) designating undertakings and classes of undertakings to which this Act applies;

(c) prescribing the manner of preparation and submission of and information contained in registrations, environmental preview reports, and environmental impact statements;

(d) establishing criteria for the examination of undertakings in order to determine whether an environmental impact statement is required, an environmental preview report is required or the undertaking may be released;

(e) respecting the manner in which registrations, environmental preview reports and environmental impact statements and comments and responses to them are to be produced, submitted, reproduced, and disseminated, including electronic and other technological means and respecting component studies of environmental impact statements;

(f) prescribing time periods by which notices, submissions, orders, procedures, commencements of undertakings and other actions expire or are to be carried out and prescribing when reregistrations, extensions and agreements with respect to the time periods may apply;

(g) prescribing duties and qualifications of board and committee members and procedures with respect to boards, committees and public hearings under the Act;

(h) prescribing methods and procedures by which the members of the general public may be involved in environmental assessments and the manner in which the proponent or his or her agent shall meet with, provide information to, and record the opinions, concerns and questions of, interested persons;

(i) exempting a person, class of persons, undertaking or class of undertakings from this Act or a section of this Act;

(j) providing for the requirements, design and implementation of environmental monitoring and rehabilitation programs in respect of undertakings;

(k) respecting the posting of a bond or the provision of another form of security as a condition of a release;

(l) respecting class environmental assessments;

(m) respecting agreements made under this Act; and

(n) generally to give effect to the purpose of this Act.

#### Fees and forms

**38.** The minister may set fees and establish forms for the purpose and administration of this Act.

#### Notice of registrations and decisions

**39.** The minister shall issue a notice of the registration of an undertaking and of a decision, direction or determination with respect to an environmental assessment under this Act within the time period required by regulation.

#### Power included

**40.** (1) The power to release an undertaking under this Act includes a power to amend that release in the same manner in which the original release was made.

(2) The power to exempt or release an undertaking under this Act subject to terms and conditions includes the power to require, as a term or condition, the posting of a bond or another form of security by the proponent of that undertaking.

#### Service

**41.** (1) A notice, order, approval or other document is sufficiently given or served under this Act or the regulations where delivered personally or sent by registered mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the department.

(2) Where a person to whom a notice, order, approval or other document is to be given or served as described in subsection (1) is a corporation, it shall be considered to be sufficiently given or served where delivered personally to a director or chief executive officer of that corporation.

#### Offence

**42.** (1) A person who

(a) provides false or misleading information in respect of a requirement under this Act or the regulations to provide information;

(b) does not provide information as required under this Act or the regulations;

(c) hinders or obstructs a person who is exercising powers or carrying out duties under this Act or the regulations;

(d) does not comply with an order or direction made under this Act or the regulations by the minister or the Lieutenant-Governor in Council;

(e) does not comply with a term or condition imposed under this Act or the regulations in respect of an undertaking; and

(f) otherwise contravenes this Act or the regulations,

is guilty of an offence.

(2) Each continuance for a day or a part of a day of an offence referred to in subsection (1) constitutes a separate offence.

Penalty

**43.** (1) A person convicted of an offence under section 42 is liable on summary conviction

(a) in the case of a person who is not a corporation to a fine of not less than \$1,000 and not more than \$50,000 and, in default of payment, to imprisonment for a term not exceeding 6 months, or to both the fine and imprisonment; and

(b) in the case of a corporation, to a fine of not less than \$5,000 and not more than \$1,000,000.

(2) A person who is convicted of a subsequent offence under section 42 that is a violation of the same paragraph of that subsection for which the person was convicted of a first offence is liable on summary conviction

(a) in the case of a person who is not a corporation to a fine of not less than \$3,000 and not more than \$50,000 and, in default of payment, to imprisonment for a term not exceeding 6 months, or to both the fine and imprisonment; and

(b) in the case of a corporation, to a fine of not less than \$15,000 and not more than \$1,000,000.

(3) Where a corporation commits an offence under section 42, a person who is an officer, director or agent of the corporation and who directed, authorized, assented to, acquiesced in or participated in that offence is liable, on summary conviction, to the punishments provided in paragraphs (1)(b) and (2)(b) and, in default of payment of the fines imposed under those paragraphs, the court may impose upon that person a term of imprisonment not exceeding 6 months.

Reclamation order

**44.** Where a person is convicted of an offence under section 42, in addition to another penalty that may be imposed under section 43, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the offender to

(a) take the action the court considers necessary to remedy or prevent an environmental effect that results or may result from the act that constituted the offence; and

(b) post a bond or other form of security acceptable to the court or pay money into court in an amount that will ensure compliance with an order made under this section.

Transitional

**45.** An undertaking registered under the *Environmental Assessment Act* in force immediately before the coming into force of this Act shall be considered to have been registered under this Act and that registration shall continue in force until the date on which that registration would have expired under the *Environmental Assessment Act* or 3 years after the coming into force of this Act, whichever occurs first, and this Act shall, with the necessary changes, apply to that undertaking.

**46. The *Environmental Assessment Act* is repealed.**

Commencement

**47. This Act comes into force on a day to be proclaimed by the Lieutenant-Governor in Council.**

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