

Canada Water Act

CHAPTER C-11

An Act to provide for the management of the water resources of Canada, including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources

Preamble

WHEREAS the demands on the water resources of Canada are increasing rapidly and more knowledge is needed of the nature, extent and distribution of those resources, of the present and future demands thereon and of the means by which those demands may be met;

AND WHEREAS pollution of the water resources of Canada is a significant and rapidly increasing threat to the health, well-being and prosperity of the people of Canada and to the quality of the Canadian environment at large and as a result it has become a matter of urgent national concern that measures be taken to provide for water quality management in those areas of Canada most critically affected;

AND WHEREAS Parliament desires that, in addition, comprehensive programs be undertaken by the Government of Canada and by the Government of Canada in cooperation with provincial governments, in accordance with the responsibilities of the federal government and each of the provincial governments in relation to water resources, for research and planning with respect to those resources and for their conservation, development and utilization to ensure their optimum use for the benefit of all Canadians;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Canada Water Act*.

R.S., c. 5(1st Supp.), s. 1.

INTERPRETATION

Definitions

2. (1) In this Act,

"agency" «*organisme*»

"agency" means a water quality management agency the incorporation of which is procured or that is named pursuant to section 11 or 13;

"analyst" «*analyste*»

"analyst" means an analyst designated pursuant to subsection 25(1);

"boundary waters" «*eaux limitrophes*»

"boundary waters" means the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and Canada passes, including all bays, arms, and inlets thereof, but not including tributary

waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary;

"federal agency" «*organisme fédéral*»

"federal agency" means a water quality management agency that is named pursuant to section 13;

"federal waters" «*eaux fédérales*»

"federal waters" means, other than in Yukon, waters under the exclusive legislative jurisdiction of Parliament and, in Yukon, waters in a federal conservation area within the meaning of section 2 of the *Yukon Act*;

"inspector" «*inspecteur*»

"inspector" means an inspector designated pursuant to subsection 25(1);

"inter-jurisdictional waters" «*eaux relevant de plusieurs juridictions*»

"inter-jurisdictional waters" means any waters, whether international, boundary or otherwise, that, whether wholly situated in a province or not, significantly affect the quantity or quality of waters outside the province;

"international waters" «*eaux internationales*»

"international waters" means waters of rivers that flow across the international boundary between the United States and Canada;

"Minister" «*ministre*»

"Minister" means the Minister of the Environment;

"prescribed" *Version anglaise seulement*

"prescribed" means prescribed by regulation;

"waste" «*déchet*»

"waste" means

(a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man, and

(b) any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent described in paragraph (a);

"water quality management" «*gestion qualitative des eaux*»

"water quality management" means any aspect of water resource management that relates to restoring, maintaining or improving the quality of water;

"water resource management" «*gestion des ressources en eau*»

"water resource management" means the conservation, development and utilization of water resources and includes, with respect thereto, research, data collection and the maintaining of inventories, planning and the implementation of plans, and the control and regulation of water quantity and quality.

Prescribed substances and certain water deemed waste

(2) Without limiting the generality of the definition "waste" in this Act,

(a) any substance or any substance that is part of a class of substances prescribed pursuant to subparagraph 18(1)(a)(i),

(b) any water that contains any substance or any substance that is part of a class of substances in a quantity or concentration that is equal to or in excess of a quantity or concentration prescribed in respect of that substance or class of substances pursuant to subparagraph 18(1)(a)(ii), and

(c) any water that has been subjected to a treatment, process or change prescribed pursuant to subparagraph 18(1)(a)(iii),

shall, for the purposes of this Act, be deemed to be waste.

R.S., 1985, c. C-11, s. 2; 2002, c. 7, s. 115.

HER MAJESTY

[Binding on Her Majesty](#)

3. This Act is binding on Her Majesty in right of Canada or a province.

R.S., c. 5(1st Supp.), s. 2.

PART I COMPREHENSIVE WATER RESOURCE MANAGEMENT

Federal-Provincial Arrangements

[Establishment of
intergovernmental committees,
etc.](#)

4. For the purpose of facilitating the formulation of policies and programs with respect to the water resources of Canada and to ensure the optimum use of those resources for the benefit of all Canadians, having regard to the distinctive geography of Canada and the character of water as a natural resource, the Minister may, with the approval of the Governor in Council, enter into an arrangement with one or more provincial governments to establish, on a national, provincial, regional, lake or river-basin basis, intergovernmental committees or other bodies

(a) to maintain continuing consultation on water resource matters and to advise on priorities for research, planning, conservation, development and utilization relating thereto;

(b) to advise on the formulation of water policies and programs; and

(c) to facilitate the coordination and implementation of water policies and programs.

R.S., c. 5(1st Supp.), s. 3.

Comprehensive Water Resource Management Programs

[Federal-provincial water resource
management programs](#)

5. Subject to this Act, the Minister may, with the approval of the Governor in Council, with respect to any waters where there is a significant national interest in the water resource management thereof, enter into agreements with one or more provincial governments having an interest in the water resource management of those waters, providing for programs to

(a) establish and maintain an inventory of those waters,

(b) collect, process and provide data on the quality, quantity, distribution and use of those waters,

(c) conduct research in connection with any aspect of those waters or provide for the conduct of any such research by or in cooperation with any government, institution or person,

(d) formulate comprehensive water resource management plans, including detailed estimates of the cost of implementation of those plans and of revenues and other benefits likely to be realized from the implementation thereof, based on an examination of the full range of reasonable

alternatives and taking into account views expressed at public hearings and otherwise by persons likely to be affected by implementation of the plans,

(e) design projects for the efficient conservation, development and utilization of those waters, and

(f) implement any plans or projects referred to in paragraphs (d) and (e),

and establishing or naming joint commissions, boards or other bodies empowered to direct, supervise and coordinate those programs.

R.S., c. 5(1st Supp.), s. 4.

Federal water resource management programs

6. (1) Subject to subsection (2), the Minister shall, with the approval of the Governor in Council, undertake directly,

(a) with respect to any federal waters, any program described in any of paragraphs 5(a) to (e) and the implementation of any program described in paragraph 5(d) or (e);

(b) with respect to any inter-jurisdictional waters where there is a significant national interest in the water resource management thereof, any program described in paragraph 5(d) or (e); and

(c) with respect to any international or boundary waters where there is a significant national interest in the water resource management thereof, any program described in paragraph 5(d) or (e) and the implementation of any such program.

Condition to approval of federal programs

(2) The Governor in Council shall not approve the undertaking by the Minister of any program pursuant to paragraph (1)(b) or (c) unless the Governor in Council is satisfied that all reasonable efforts have been made by the Minister to reach an agreement under section 5 with the one or more provincial governments having an interest in the water resource management of the waters in question and that those efforts have failed.

Minister to consider priorities

(3) In undertaking any programs pursuant to subsection (1), the Minister shall take into account any priorities for development recommended pursuant to paragraph 4(a).

R.S., c. 5(1st Supp.), s. 5.

Research, data collection and inventory establishment

7. The Minister may conduct research, collect data and establish inventories respecting any aspect of water resource management or the management of any specific water resources or provide for the conduct of any such research, data collection or inventory establishment by or in cooperation with any government, institution or person.

R.S., c. 5(1st Supp.), s. 6.

Matters to be specified in agreements

8. (1) Where, pursuant to section 5, the Minister enters into an agreement with one or more provincial governments, the agreement shall, where applicable, in respect of each program that is the subject of the agreement, specify

(a) the respective parts of the program to be undertaken by the Minister and the provincial government or governments and the times at which and the manner in which those parts of the program are to be carried out;

(b) the proportions of the cost of the respective parts of the program that are to be paid by the Minister and the provincial government or governments and the times at which amounts representing those

proportions are to be paid;

(c) the labour, land and materials that are to be supplied in relation to the respective parts of the program by the Minister and the provincial government or governments;

(d) the proportions in which any compensation awarded or agreed to be paid to any body or person suffering loss as a result of the program is to be paid by the Minister and the provincial government or governments;

(e) the amount of any loan or grant, constituting part or all of the cost of the program to be paid by the Minister, that is to be made or paid by the Minister to the provincial government or governments, and the manner in which the terms and conditions of the loan or grant are to be determined;

(f) the authority or authorities, whether an agent or agents of Her Majesty in right of Canada or a province or otherwise as may be agreed to be appropriate, that will be responsible for the undertaking, operation or maintenance of projects that form part of the program;

(g) the respective proportions of the revenues from the program that are to be paid to the Minister and the provincial government or governments; and

(h) the terms and conditions relating to the undertaking, operation and maintenance of the program.

Provisions to be included in agreements

(2) An agreement entered into pursuant to section 5 shall, where applicable, in respect of the joint commission, board or other body thereby established or named, provide for

(a) the constitution thereof, the members thereof that are to be appointed by the Minister and the provincial government or governments that are parties to the agreement and the terms and conditions of the appointments;

(b) the staff thereof that is to be supplied by the Minister and the provincial government or governments;

(c) the duties of the body and the powers that it may exercise in directing, supervising and coordinating the program;

(d) the keeping of accounts and records by the body;

(e) the annual submission by the body to the Minister and the provincial government or governments of operating and capital budgets in connection with the programs directed, supervised and coordinated by the body for the next following fiscal year for approval by the Governor in Council and such persons on behalf of the provincial government or governments as are designated in the agreement; and

(f) the submission by the body to the Minister and the provincial government or governments, within three months after the termination of each fiscal year, of an annual report containing such information as is specified in the agreement.

R.S., c. 5(1st Supp.), s. 7.

PART II WATER QUALITY MANAGEMENT

Pollution of Waters

Prohibition

9. Except in quantities and under conditions prescribed with respect to waste disposal in the water quality management area in question, including the payment of any effluent discharge fee prescribed therefor, no person shall deposit or permit the deposit of waste of any type in any waters composing a water quality management area designated pursuant to section 11 or 13, or in any place under any conditions where the waste or any other waste that results from the deposit of the waste may enter any such waters.

R.S., c. 5(1st Supp.), s. 8.

Application of section 9

10. Section 9 is not applicable in respect of a water quality management area designated pursuant to section 11 or 13 until a proclamation has been issued declaring it to be applicable in respect of that area.

R.S., c. 5(1st Supp.), s. 39.

Federal-Provincial Water Quality Management

Federal- provincial agreements

11. (1) The Minister may, with the approval of the Governor in Council, enter into agreements with one or more provincial governments that have an interest in the water quality management of

(a) any federal waters; or

(b) any waters, other than federal waters, the water quality management of which has become a matter of urgent national concern.

Object of agreements

(2) An agreement referred to in subsection (1) shall

(a) designate the waters to which the agreement relates as a water quality management area;

(b) provide for water quality management programs in respect of those waters; and

(c) authorize the Minister, jointly with such one or more provincial governments, to procure the incorporation of a corporation without share capital, or to name an existing corporation that is an agent of Her Majesty in right of Canada or a province or that performs any function or duty on behalf of the Government of Canada or the government of a province, as a water quality management agency to plan, initiate and carry out, in conjunction with the Minister and the provincial government or governments referred to in subsection (1), programs described in section 15 in respect of the waters described in that subsection.

R.S., c. 5(1st Supp.), s. 9.

Matters to be specified in agreements

12. (1) Where, pursuant to section 11, the Minister enters into an agreement with one or more provincial governments, the agreement shall, where applicable, in respect of each water quality management program that is the subject of the agreement, specify

(a) the responsibilities of the Minister and the provincial government or governments and the times at which and the manner in which those responsibilities are to be undertaken;

(b) the proportions of the capital cost of the respective parts of the program that are to be paid by the Minister and the provincial government or

governments and the times at which amounts representing those proportions are to be paid;

(c) the loans or contributions to be made or paid by the Minister and the provincial government or governments in respect of the cost of incorporation and operating expenses of the agency that is to undertake the program, the loans to be made by the Minister and that government or those governments in respect of capital costs incurred by that agency and the times at which those loans or contributions are to be made or paid;

(d) the labour, land and materials that are to be supplied by the Minister and the provincial government or governments to the agency referred to in paragraph (c);

(e) the proportions in which any compensation awarded or agreed to be paid to any body or person suffering loss as a result of the program is to be paid by the Minister and the provincial government or governments; and

(f) the terms and conditions relating to the undertaking, operation and maintenance of the program by the agency referred to in paragraph (c).

Termination of agreement

(2) An agreement entered into pursuant to section 11 shall provide that it may be terminated, on six months written notice by any party to the agreement to all other parties thereto or on such lesser notice as may be agreed on by all the parties, and that on the expiration of the time fixed by the notice for the termination of the agreement any agency incorporated thereunder shall be wound up.

Provisions to be included in agreements

(3) An agreement entered into pursuant to section 11 shall, in respect of the agency the incorporation of which is thereby authorized to be procured, if any, provide for

(a) the proposed corporate name of the agency;

(b) the place within the water quality management area designated in the agreement where the head office of the agency is to be situated;

(c) the members of the agency that are to be appointed by the Minister and the provincial government or governments that are parties to the agreement and the terms and conditions of the appointments;

(d) the proposed by-laws of the agency; and

(e) the matters set out in paragraphs 8(2)(b) and (d) to (f).

R.S., c. 5(1st Supp.), s. 10.

Federal Water Quality Management

Federal programs respecting inter-jurisdictional waters

13. (1) Where the water quality management of any inter-jurisdictional waters has become a matter of urgent national concern, the Governor in Council, subject to subsection (2), may, on the recommendation of the Minister, designate those waters as a water quality management area and authorize the Minister to name an existing corporation that is an agent of Her Majesty in right of Canada, or that performs any function or duty on behalf of the Government of Canada, as a water quality management agency to plan, initiate and carry out programs described in section 15 in respect of those waters.

Conditions for programs

(2) The Governor in Council may exercise the powers referred to in subsection (1) where either

(a) the Governor in Council is satisfied that all reasonable efforts have been made by the Minister to reach an agreement under section 11 with

the one or more provincial governments having an interest in the water quality management of the inter-jurisdictional waters in question and that those efforts have failed, or

(b) although an agreement was reached under section 11 in respect of those inter-jurisdictional waters and an agency was incorporated or named under the agreement, the Minister and the appropriate minister of each provincial government that was a party to the agreement disagreed with the recommendations of the agency with respect to water quality standards for those waters and were unable to agree on a joint recommendation with respect thereto and, as a result of the failure to agree, the agreement under section 11 was terminated.

Programs respecting federal waters

(3) The Governor in Council may, on the recommendation of the Minister, designate any federal waters as a water quality management area and authorize the Minister to name an existing corporation that is an agent of Her Majesty in right of Canada, or that performs any function or duty on behalf of the Government of Canada, as a water quality management agency to plan, initiate and carry out programs described in section 15 in respect of those waters.

Directions

(4) The Minister may give directions to any federal agency with respect to the implementation of any water quality management program.

R.S., c. 5(1st Supp.), s. 11; 1984, c. 31, s. 14.

Agent of Her Majesty

14. (1) A federal agency is for all purposes an agent of Her Majesty and it may exercise its powers only as an agent of Her Majesty.

Contracts

(2) A federal agency may, on behalf of Her Majesty, enter into contracts in the name of Her Majesty or in its own name.

Property

(3) Any property acquired by a federal agency is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in its own name.

Proceedings

(4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by a federal agency on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against that agency in the name of the agency in any court that would have jurisdiction if it were not an agent of Her Majesty.

R.S., c. 5(1st Supp.), s. 12.

Water Quality Management Agencies

Objects of agencies

15. (1) The objects of each water quality management agency shall be to plan, initiate and carry out programs to restore, preserve and enhance the water quality level in the water quality management area for which the agency is incorporated or named.

Powers of agencies

(2) In carrying out the objects of a water quality management agency, subject to any agreement under section 11 relating to the water quality management area for which it is incorporated or named or subject to any direction of the Minister to a federal agency, the agency may, after taking into account views expressed to it, at public hearings and otherwise, by persons likely to have an interest therein, in respect of the waters composing the water quality management area,

(a) ascertain the nature and quantity of waste present therein and the water quality level;

(b) undertake studies that enable forecasts to be made of the amounts and kinds of waste that are likely to be added to those waters in the future; and

(c) develop and recommend to the Minister and, in the case of an agency other than a federal agency, to the appropriate minister of each provincial government that is a party to the agreement relating to the water quality management area, a water quality management plan including

(i) recommendations with respect to water quality standards for those waters or any part thereof and the times at which those standards should be attained,

(ii) recommendations, based on the water quality standards recommended pursuant to subparagraph (i), with respect to the quantities and types of waste, if any, that may be deposited in those waters and the conditions under which any such waste may be deposited,

(iii) recommendations with respect to the treatment that may be required for any waste that is or may be deposited in those waters and the type of treatment facilities necessary to achieve the water quality standards recommended pursuant to subparagraph (i),

(iv) recommendations with respect to appropriate effluent discharge fees to be paid by persons for the deposit of waste in those waters and the time or times at which and the manner in which those fees should be paid,

(v) recommendations with respect to appropriate waste treatment and waste sample analysis charges to be levied by the agency for the treatment of waste at any waste treatment facility that is operated and maintained by it or for the analysis of any waste sample by it,

(vi) detailed estimates of the cost of implementation of the plan and of revenues and other benefits likely to be realized from the implementation thereof, and

(vii) estimates of the time within which the agency would become financially self-sustaining.

Publication of plan

(3) Where an agency recommends a water quality management plan to the Minister, the agency shall forthwith cause the plan to be published in the *Canada Gazette* and shall publish a concise summary of the plan in a newspaper of general circulation in the area affected by the plan at least once a week for a period of four weeks and no such plan shall be approved until the expiration of seven clear days after the last of those publications of the summary.

Implementation of plan

(4) Where a water quality management plan recommended by an agency in respect of the waters composing the water quality management area for which it is incorporated or named has been approved by the Minister and, in the case of an agency other than a federal agency, by the appropriate minister of each provincial government that is a party to the agreement relating to those waters, the agency may, in order to implement the water quality management plan,

(a) design, construct, operate and maintain waste treatment facilities and undertake the treatment of waste delivered to those facilities;

(b) undertake the collection of any charges prescribed for waste treatment at any waste treatment facility that is operated and maintained by the agency and for waste sample analysis carried out by it;

(c) undertake the collection of effluent discharge fees prescribed to be payable by any person for the deposit of waste in those waters;

(d) monitor, on a regular basis, water quality levels;

(e) provide facilities for the analysis of samples of waste and collect and

provide data respecting the quantity and quality of waste and the effects thereof on those waters;

(f) regularly inspect any waste treatment facilities within the water quality management area for which the agency is incorporated or named, whether they are publicly or privately owned;

(g) publish or otherwise distribute such information as may be required under this Act; and

(h) do such other things as are necessary to achieve effective water quality management of those waters.

Restriction on powers to borrow, etc.

(5) An agency does not, except with respect to loans authorized to be made to the agency by the Minister or a provincial government as described in paragraph 12(1)(c), have power to borrow moneys, to issue securities or to guarantee the payment of any debt or obligation of any person.

R.S., c. 5(1st Supp.), s. 13.

Remuneration of members

16. (1) The members of an agency who are appointed by the Minister or by the Governor in Council and who are not employees in the public service of Canada shall be paid by the agency such remuneration as is authorized by the Governor in Council.

Staff and professional or technical assistance

(2) The Minister may provide any agency with such officers and employees as may be necessary for the proper functioning of the agency, and may provide it with such professional or technical assistance for temporary periods or for specific work as the agency may request.

Employment and remuneration of staff and consultants

(3) Subject to the agreement under which the incorporation of an agency was authorized to be procured or to any direction of the Minister under subsection 13(4) in respect of a federal agency, the agency may employ such officers and employees and such consultants and advisers as it considers necessary to enable it to carry out its objects and may fix the terms and conditions of their employment and their remuneration, which shall be paid by the agency.

R.S., c. 5(1st Supp.), s. 14.

Operating account

17. (1) Each agency shall maintain, in a bank, an account under the name of the agency.

Credits

(2) There shall be deposited to the account referred to in subsection (1)

(a) all amounts collected by the agency as or on account of charges levied for treatment of waste, for the analysis of samples of waste or for the deposit of waste in the waters composing the water quality management area for which the agency is incorporated or named;

(b) contributions paid or loans made to the agency by the Government of Canada or the government of a province in respect of the cost of incorporation of the agency, in respect of its operating expenses or in respect of capital costs incurred by it; and

(c) interest received by the agency on securities purchased, acquired and held by it pursuant to subsection (4).

Debits

(3) All expenditures incurred by the agency in its operations and all repayments of loans made to the agency and payments of interest thereon shall be paid out of the account referred to in subsection (1).

Investment of surplus funds

(4) An agency may from time to time, out of any surplus funds standing to its credit in an account maintained pursuant to subsection (1), purchase, acquire

and hold

(a) in the case of a federal agency, any securities of or guaranteed by the Government of Canada; and

(b) in the case of any other agency, any securities of or guaranteed by the Government of Canada, or of or guaranteed by the government of any province that is a party to the agreement pursuant to which the agency was authorized to be incorporated or was named.

Sale of investments

(5) An agency may sell any securities purchased, acquired and held pursuant to subsection (4) and the proceeds of sale shall be deposited to the credit of the agency in the account maintained in respect of the agency under subsection (1).

R.S., c. 5(1st Supp.), s. 15.

Regulations

General

18. (1) The Governor in Council may make regulations

(a) prescribing

(i) substances and classes of substances,

(ii) quantities or concentrations of substances and classes of substances in water, and

(iii) treatments, processes and changes of water

for the purpose of subsection 2(2);

(b) prescribing the procedure to be followed by each agency in determining its recommendations with respect to charges that may be levied by it for treatment of waste at any waste treatment facility that is operated and maintained by the agency;

(c) prescribing the procedure to be followed by each agency in determining its recommendations with respect to water quality standards for waters composing the water quality management area for which it is incorporated or named;

(d) prescribing the criteria, which shall be related to estimates of the cost of appropriate treatment of waste expected to be deposited, to be used by each agency in determining its recommendations with respect to effluent discharge fees to be paid by persons for the deposit of waste in waters composing the water quality management area for which it is incorporated or named and the time or times at which and the manner in which those fees should be paid;

(e) requiring persons who deposit waste in any waters composing a water quality management area to maintain books and records necessary for the proper enforcement of this Act and the regulations;

(f) requiring persons who have deposited waste in contravention of section 9 to report the deposit to the agency incorporated or named for the water quality management area in which the deposit is made and providing for the manner in which and the time within which the report is to be made;

(g) requiring persons who deposit waste in any waters composing a water quality management area to submit test portions of that waste to the

agency incorporated or named in respect of the area;

(h) respecting the method of analysis by each agency of test portions of waste submitted to it;

(i) respecting the powers and duties of inspectors and analysts, the taking of samples and the making of analyses for the purposes of this Act; and

(j) generally, for carrying out the purposes and provisions of this Act.

For water quality management areas

(2) Subject to subsection (3), the Governor in Council may make regulations prescribing, with respect to each water quality management area,

(a) the quantities, if any, of waste of any type that, for the purpose of section 9, may be deposited in the waters composing that area and the conditions under which any such waste may be deposited;

(b) the charges to be paid by any person to the agency incorporated or named in respect thereof

(i) for treatment of waste by the agency at a waste treatment facility that is operated and maintained by it, and

(ii) for analysis of waste samples by the agency,

and the persons by whom those charges are payable and the time or times at which and the manner in which those charges shall be paid;

(c) water quality standards for the waters composing that area; and

(d) the effluent discharge fees, if any, to be paid by any person to the agency incorporated or named in respect thereof for the deposit of waste in the waters composing that area and the persons by whom those fees are payable and the time or times at which and the manner in which those fees shall be paid.

Governor in Council to act only on recommendation

(3) No regulation that is made by the Governor in Council under subsection (2) with respect to a water quality management area for which an agency is incorporated or named under an agreement entered into pursuant to section 11 is of any force or effect unless

(a) the regulation is made on the recommendation of the agency; or

(b) where the Minister and the appropriate minister of each provincial government that is a party to the agreement disagree with the recommendations of the agency and jointly make a different recommendation, the regulation is made on that joint recommendation.

R.S., c. 5(1st Supp.), s. 16.

PART III

[Repealed, R.S., 1985, c. 16 (4th Supp.), s. 141]

PART IV GENERAL

Inspectors and Analysts

Designation

25. (1) The Minister may designate any qualified person as an inspector or analyst for the purposes of this Act but where a qualified officer of any other department or agency of the Government of Canada carries out similar duties for the purposes of another Act the Minister shall designate that officer whenever possible.

Certificate to be produced

(2) The Minister shall furnish every inspector with a certificate of his designation as an inspector and on entering any area, place, premises, vehicle or vessel referred to in subsection 26(1) an inspector shall, if so required, produce the certificate to the person in charge thereof.

R.S., c. 5(1st Supp.), ss. 23, 24.

Powers of inspectors

26. (1) An inspector may, at any reasonable time,

(a) enter any area, place, premises, vessel or vehicle, other than a private dwelling-place or any part of any such area, place, premises, vessel or vehicle that is designed to be used and is being used as a permanent or temporary private dwelling-place, in which the inspector believes on reasonable grounds that

(i) there is any waste that may be or has been added to any waters that have been designated as a water quality management area pursuant to section 11 or 13, or

(ii) there is being or has been carried out any manufacturing or other process that may result in or has resulted in waste described in subparagraph (i);

(iii) and (iv) [Repealed, R.S., 1985, c. 16 (4th Supp.), s. 142]

(b) examine any waste found therein in bulk or open any container found therein that the inspector believes on reasonable grounds contains any waste and take samples thereof; and

(c) require any person in that area, place, premises, vehicle or vessel to produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom any books or other documents or papers concerning any matter relevant to the administration of this Act or the regulations.

Search

(2) An inspector with a warrant issued under subsection (3) may at any reasonable time enter any area, place, premises, vessel or vehicle in which the inspector believes on reasonable grounds there is any cleaning agent or water conditioner that has been manufactured in Canada or imported into Canada in contravention of section 20 and search the area, place, premises, vessel or vehicle for evidence of the contravention.

Authority to issue warrant

(3) Where on *ex parte* application a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in any area, place, premises, vessel or vehicle referred to in subsection (2)

(a) anything on or in respect of which any contravention of section 20 has been or is suspected to have been committed, or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of any contravention of section 20,

the justice of the peace may issue a warrant under his hand authorizing the inspector named therein to enter and search that area, place, premises, vessel

or vehicle subject to such conditions as may be specified in the warrant.

Use of force

(4) In executing a warrant issued under subsection (3), the inspector named therein shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

Where warrant not necessary

(5) An inspector may exercise any of the powers referred to in subsection (2) without a warrant issued under subsection (3) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

Exigent circumstances

(6) For the purposes of subsection (5), exigent circumstances include circumstances in which the delay necessary to obtain a warrant under subsection (3) would result in danger to human life or safety or the loss or destruction of evidence.

Assistance to inspectors

(7) The owner or person in charge of any area, place, premises, vehicle or vessel referred to in this section and every person found therein shall give an inspector all reasonable assistance to enable the inspector to carry out his duties and functions under this Act and the regulations and shall furnish the inspector with such information with respect to the administration of this Act and the regulations as the inspector may reasonably require.

R.S., 1985, c. C-11, s. 26; R.S., 1985, c. 31 (1st Supp.), s. 29, c. 16 (4th Supp.), s. 142.

Obstruction of inspector

27. (1) No person shall obstruct or hinder an inspector in the carrying out of his duties or functions under this Act or the regulations.

False statements

(2) No person shall knowingly make a false or misleading statement, either orally or in writing, to an inspector or other person engaged in carrying out his duties or functions under this Act or the regulations.

R.S., c. 5(1st Supp.), s. 25.

Advisory Committees

Establishment and constitution of advisory committees

28. (1) The Minister may establish and appoint the members of such advisory committees as the Minister considers desirable for the purpose of advising and assisting him in carrying out the purposes and provisions of this Act.

Expenses and allowances

(2) Each member of an advisory committee is entitled to be paid reasonable travel and other expenses while absent from his ordinary place of residence in the course of his duties as a member and may, with the approval of the Minister, be paid such amount as is fixed by the Governor in Council for each day the member attends any meeting of the committee or for each day during which he performs, with the approval of the committee, any duties on behalf of the committee in addition to his ordinary duties.

R.S., c. 5(1st Supp.), s. 26.

Public Information Program

Distribution of information

29. The Minister may, either directly or in cooperation with any government, institution or person, publish or otherwise distribute or arrange for the publication or distribution of such information as the Minister deems necessary to inform the public respecting any aspect of the conservation, development or utilization of the water resources of Canada.

R.S., c. 5(1st Supp.), s. 27.

Offences and Punishment

Punishment

30. (1) Every person who contravenes section 9 is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars for each offence.

Continuing offences

(2) Where an offence under subsection (1) is committed on, or continued for, more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.

R.S., 1985, c. C-11, s. 30; R.S., 1985, c. 16 (4th Supp.), s. 143.

Punishment

31. Every person who contravenes section 27 or any regulation made under paragraph 18(1)(e), (f) or (g) is guilty of an offence punishable on summary conviction.

R.S., 1985, c. C-11, s. 31; R.S., 1985, c. 16 (4th Supp.), s. 144.

Order to refrain or to cease activity

32. Where a person is convicted of an offence under this Act, the court may, in addition to any punishment it may impose, order that person to refrain from any further contravention of the provision of this Act or the regulations for the contravention of which that person has been convicted or to cease to carry on any activity specified in the order the carrying on of which, in the opinion of the court, will or is likely to result in any further contravention thereof.

R.S., c. 5(1st Supp.), s. 30.

Offence of employee or agent

33. In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of, and that all due diligence to prevent its commission was exercised by, the accused.

R.S., c. 5(1st Supp.), s. 31.

Limitation period

34. Proceedings in respect of an offence under this Act may be instituted at any time within, but not later than, two years after the time when the subject-matter of the proceedings arose.

R.S., c. 5(1st Supp.), s. 32.

Venue

35. Any complaint or information in respect of an offence under this Act may be heard, tried or determined by a court if the accused is resident or carrying on business within the territorial jurisdiction of that court although the matter of the complaint or information did not arise in that territorial jurisdiction.

R.S., c. 5(1st Supp.), s. 33.

Action to enjoin not prejudiced by prosecution

36. (1) Notwithstanding that a prosecution has been instituted in respect of an offence under subsection 30(1), the Attorney General of Canada may commence and maintain proceedings to enjoin any contravention of section 9.

Civil remedy not affected

(2) No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this Act.

R.S., c. 5(1st Supp.), s. 34.

Evidence

Certificate of analyst

37. (1) Subject to subsections (2) and (3), a certificate purporting to be signed by an analyst and stating that the analyst has analyzed or examined a sample submitted to the analyst by an inspector and stating the result of the analysis or examination is admissible in evidence in any prosecution for a contravention of this Act and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate without proof of the signature or official character of the person appearing to have signed the certificate.

Attendance of analyst

(2) The party against whom a certificate of an analyst is produced pursuant to subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

Notice of intended production of certificate

(3) No certificate shall be admitted in evidence pursuant to subsection (1) unless the party intending to produce it has given reasonable notice of that intention, together with a copy of the certificate, to the party against whom it is intended to be produced.

R.S., c. 5(1st Supp.), s. 35.

Report to Parliament

Annual report

38. The Minister shall, as soon as possible after the end of each fiscal year, prepare a report on the operations under this Act for that year, and the Minister shall cause the report to be laid before Parliament forthwith on the completion thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.

R.S., c. 5(1st Supp.), s. 36.

Financial

Loans, grants and contributions

39. The Minister may, with the approval of the Governor in Council,

(a) make loans or pay contributions to any agency in respect of the cost of incorporating the agency or in respect of its operating expenses or make loans to any agency in respect of capital costs incurred by it; and

(b) in accordance with an agreement entered into under section 5, make loans or pay grants to the government of any province to meet any part of such portion of the cost of programs undertaken pursuant to the agreement as is to be paid by the Minister.

R.S., c. 5(1st Supp.), s. 38.