

GOVERNMENT ORGANIZATION ACT

Chapter G-10

Schedule 5 Environmental Matters

Definitions

1 In this Schedule,

(a) "environment" means environment as defined in the *Environmental Protection and Enhancement Act*;

(b) "government agency" means

(i) a corporation that is an agent of the Government, or

(ii) a corporation, commission, board or other body whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council or a Minister of the Government, or any combination of them;

(c) "natural resources" means land, plant life, animal life, water and air.

Acquisition of land

2(1) The Minister may purchase or expropriate any estate or interest in land and may purchase any personal property in conjunction with the land

(a) for the purpose of carrying out any agreement entered into between the Minister and the government of another jurisdiction or agency of such a government, a government agency or any other person,

(b) for the purpose of any program or development project relating to the protection, enhancement and wise use of the environment, or

(c) for any other purpose related to a matter under the administration of the Minister.

(2) Land acquired under this section is under the administration of the Minister responsible for the *Public Lands Act* unless, before or after the acquisition, the Lieutenant Governor in Council, by order, directs that it is under the administration of the Minister responsible for this Schedule or some other Minister.

Declaration of state of emergency

3(1) On the report of the Minister

(a) that circumstances exist whereby the environment in any part of Alberta has been, is being or is likely to be destroyed, damaged or polluted, and

(b) that urgent co-ordinated action is required for the purpose of preventing, alleviating, controlling or stopping the destruction, damage or pollution,

the Lieutenant Governor in Council may by order declare that a state of emergency exists with respect to those circumstances for the purposes of this section.

(2) When the Lieutenant Governor in Council has made an order under subsection (1), the Minister or any employee of the Minister's Department authorized by the Minister for the purpose may

(a) require any officer or employee of the Government or a government agency to provide the officer's or employee's services,

(b) require any municipal corporation or any other corporation or organization to provide its services, or

(c) require any other person not exempted by the regulations to provide the person's services,

for the purposes of preventing, alleviating, controlling or stopping the destruction, damage or pollution referred to in the order.

(3) A person who refuses or neglects to comply with any requirement directed to the person under subsection (2) is guilty of an offence and liable to a fine of not less than \$25 and not more than \$300 and in default of payment to imprisonment for a term of not more than 90 days or to both fine and imprisonment.

(4) The Lieutenant Governor in Council may make regulations

(a) exempting any persons or classes of persons from the operation of subsection (2)(c);

(b) prescribing rates of pay or remuneration to be paid to persons who provide services pursuant to subsection (2);

(c) prescribing the rates of remuneration to be paid to persons who furnish or permit the use of equipment pursuant to subsection (2).

(5) This section does not apply to the prevention, control and suppression of forest and prairie fires.

Restricted Development Areas

4(1) The Lieutenant Governor in Council may by regulation establish any part or parts of Alberta as a "Restricted Development Area" or a "Water Conservation Area" (in this section called "the Area") on the report of the Minister that the establishment of the Area is necessary in the public interest to co-ordinate and regulate the development and use of the Area for the purpose of

(a) preventing, alleviating, controlling or stopping the destruction, damage or pollution of any natural resources in or adjacent to the Area,

- (b) protecting a watershed in or adjacent to the Area,
- (c) retaining the environment of the Area in a natural state or in a state suitable for recreation or the propagation of plant or animal life,
- (d) preventing the deterioration of the quality of the environment of the Area by reason of the development or use of land in the Area incompatible with the preservation of that environment,

(e) confining to land within the Area

(i) any operation, activity, use, development or occupation of land

(A) that adversely affects or is likely to adversely affect the quality or quantity of any natural resource, or

(B) that destroys, disturbs, pollutes, alters or makes use of a natural resource, or is likely to do so,

or

(ii) any emission, discharge, noise or other environmental pollutant, or its source, whether from any commercial, industrial or other operation, activity, use, development or occupation of land, or

(f) separating

(i) any operation, activity, use, development or occupation of land

(A) that adversely affects or is likely to adversely affect the quality or quantity of any natural resource, or

(B) that destroys, disturbs, pollutes, alters or makes use of a natural resource, or is likely to do so,

or

(ii) any emission, discharge, noise or other environmental pollutant, or its source, whether from any commercial, industrial or other operation, activity, use, development or occupation of lands

from any operation, activity, use, development or occupation of adjacent land.

(2) Notwithstanding any other Act, when the Lieutenant Governor in Council establishes a Restricted Development Area or Water Conservation Area, the Lieutenant Governor in Council may, in the same regulation or in any subsequent regulation, provide for

- (a) the control, restriction or prohibition of any kind of use, development or occupation of land in the Area prescribed in the regulations;
- (b) authorizing the Minister to consent to or approve any particular kind of use, development or occupation of land in the Area or to exempt any particular kind of use, development or occupation from the operation of any provision in the regulations made pursuant to clause (a);
- (c) the control, restriction or prohibition of the exercise of any power specified in the regulations by any specified Minister of the Crown, government official or government agency;
- (d) the removal of any buildings, improvements, materials or animals from the Area, and the payment of compensation by the Crown for any loss resulting from it;
- (e) the control, restriction or prohibition of the dumping, deposit or emission within the Area of any substance specified in the regulations;
- (f) the authorizing of the acquisition by purchase or expropriation by the Minister of any estate or interest in land in the Area;
- (g) the authorizing of the purchase by the Minister on behalf of the Crown in right of Alberta of all of the shares and debentures of any corporation that
 - (i) on the date of the purchase is the registered owner of an estate or interest in land that is wholly or partly within the Area,
 - (ii) has been the registered owner of the estate or interest from the date the Area was established,
 - (iii) owns the estate or interest in land free and clear of any encumbrances, other than encumbrances to which the Minister agrees,
 - (iv) has no assets other than the estate or interest in land, and
 - (v) has no outstanding liabilities other than debentures,and the authorizing of the Minister to do all things that are necessary to transfer the estate or interest in the land to the Crown in right of Alberta;
- (h) making any or all of the provisions of the *Surface Rights Act* inapplicable to any land of the Crown in the Area;
- (i) the prohibition, with respect to any land of the Crown in the Area, of any expropriation to which the *Expropriation Act* applies;
- (j) any other matter or thing necessary or incidental to the protection or improvement of the environment of the Area.

(3) The Lieutenant Governor in Council may not establish an Area that covers all or part of a Metis settlement or make or amend a regulation under subsection (2) that applies to an Area that covers all or part of a Metis settlement unless the Minister consults with the Metis settlement and the Metis Settlements General Council.

(4) When a regulation is made under this section, the Minister shall file a notice to that effect together with a certified copy of the regulation with the Registrar of Land Titles and, on such filing, the Registrar shall endorse a memorandum of the notice on each certificate of title pertaining to land within the Area.

(5) When a regulation under this section is amended,

(a) the Minister shall file a further notice respecting the amending regulation together with a certified copy of the amending regulation;

(b) the Registrar of Land Titles shall keep the further notice with the original notice and shall treat them as one document;

(c) subject to subsections (6) and (7), the Registrar of Land Titles shall not make any further endorsement on any certificate of title in respect of the further notice.

(6) When a regulation under this section is amended and the effect of the amendment is to add land to an Area, the Registrar of Land Titles shall, on receiving the Minister's further notice under subsection (5), endorse on each certificate of title for the additional land a memorandum of the original notice under subsection (4) and the further notice under subsection (5).

(7) When a regulation under this section is amended and the effect of the amendment is to remove any land from an Area, the Registrar of Land Titles shall, on receiving the Minister's further notice under subsection (5), cancel the memorandum of the original notice under this section on each certificate of title to the land so removed.

(8) When a regulation under this section is rescinded and not replaced, the Minister shall file a notice to that effect and a copy of the rescinding regulation with the Registrar of Land Titles who shall, on such filing, cancel the memorandum of the original notice on each certificate of title to the land previously within the Area.

(9) When a regulation under this section is rescinded and replaced by another regulation, the Minister shall file with the Registrar of Land Titles a notice to that effect and a certified copy of the new regulation and the Registrar shall,

(a) with respect to land that was subject to the rescinded regulation and is also subject to the new regulation, cancel the memorandum on the certificate of title for the land of the notice pertaining to the rescinded regulation and endorse a memorandum on it of the notice pertaining to the new regulation, which notice shall be then treated as a notice under subsection (4);

(b) with respect to land that was subject to the rescinded regulation but is not subject to the new regulation, cancel the memorandum of the notice on the certificate of title for the land;

(c) with respect to land that was not subject to the rescinded regulation but is subject to the new regulation, treat the notice as a notice under subsection (4) and act accordingly.

(10) On the filing with the Registrar of Land Titles of a notice under subsection (4), (5), (8) or (9), the Registrar shall send a notification respecting the filing of the notice, but without sending a copy of the regulations, amending regulations or rescinding regulations to which the notice relates, by mail or otherwise, to each registered owner on whose title a memorandum of the notice is endorsed.

(11) Notwithstanding subsection (10), the Minister shall send, by mail or otherwise, to each person shown on the certificate of title as having a subsisting estate or interest in the land affected by any regulation, amending regulation or rescinding regulation referred to in subsection (4), (5), (8) or (9), at the last address shown for that person on the certificate of title, a copy of the regulation, amending regulation or rescinding regulation, as the case may be, together with a notification relating thereto containing the information that the Minister may prescribe.

(12) If the Area covers patented land as defined in the *Metis Settlements Act*, subsections (4) to (11) insofar as they apply to that land are to be read with the following modifications:

(a) references to the Registrar of Land Titles are to be read as the Registrar of the Metis Settlements Land Registry;

(b) references to certificate of title are to be read as Metis title register.

(13) The validity or operation of a regulation under this section is not dependent on the filing of any notice by the Minister with the Registrar of Land Titles under this section.

(14) Notwithstanding the enforcement of priority provisions in the *Metis Settlements Land Registry Regulation* (AR 361/91), the validity or operation of a regulation under this section is not dependent on the filing of any notice by the Minister with the Registrar of the Metis Settlements Land Registry.

(15) Where the Minister has, before December 15, 1975, filed a caveat under the *Land Titles Act* against the certificate of title to any land in an Area purporting to claim an interest in the nature of regulatory restrictions on the uses of that land pursuant to a regulation under this section, the caveat is deemed for all purposes to be a notice by the Minister under subsection (4) and to have been filed under subsection (4).

Enforcement orders

5(1) Where in the Minister's opinion a person has contravened section 4 or the regulations under section 4, the Minister may issue an enforcement order to that person ordering that person to do any or all of the following:

- (a) cease the contravention specified in the order;
- (b) stop any operations or shut down or stop the operation of any plant, equipment or structure either permanently or for a specified period;
- (c) take any other measures that the Minister considers necessary to
 - (i) facilitate compliance with the applicable provision, or
 - (ii) protect or restore the environment.

(2) An enforcement order shall contain the reasons for making it and must be served on the person to whom it is directed.

(3) The Minister may by order

- (a) amend a term or condition of, add a term or condition to or delete a term or condition from an enforcement order,
- (b) cancel an enforcement order, or
- (c) amend a clerical error in an enforcement order.

(4) A copy of an order issued under subsection (3) must be served on the same person to whom the original enforcement order was directed.

(5) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Minister may apply to the Court of Queen's Bench for an order of the Court directing that person to comply with the enforcement order.

(6) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Minister may take whatever action the Minister considers necessary to carry out the terms of the enforcement order.

(7) Costs under this section are recoverable by the Government

- (a) in an action in debt against the person to whom the enforcement order was directed, or
- (b) by order of the Minister directing any person who has purchased land from the person to whom the enforcement order was directed to pay to the Minister instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(8) For the purposes of this section, the costs referred to in subsection (7) include, without limitation, any costs incurred in investigating and responding to

- (a) any matter to which an enforcement order relates, or
- (b) the failure to comply with an enforcement order.

(9) A purchaser who pays an amount to the Minister under subsection (7)(b) is discharged from any obligation to pay that amount to the vendor.

Appeal of enforcement order

6(1) A person to whom an enforcement order is directed under section 5(1)(a) or (b) may appeal the enforcement order by submitting a notice of appeal to the Environmental Appeals Board established under the *Environmental Protection and Enhancement Act*.

(2) A notice of appeal must be submitted not later than 7 days after receipt of a copy of the enforcement order, but the Environmental Appeals Board may, on application made before or after the expiry of that period, extend that period where the Board is of the opinion that there are sufficient grounds to do so.

(3) Subject to subsection (4), submitting a notice of appeal does not operate to stay the enforcement order.

(4) The Minister may stay an enforcement order on the application of the person to whom an enforcement order was directed.

(5) Where the Minister stays an enforcement order, the Minister may, if the Minister is of the opinion that immediate and significant impairment of or damage to the environment, human health or safety or property may result if certain terms and conditions of the enforcement order are not carried out,

(a) carry out whatever action the Minister considers to be necessary to carry out those terms and conditions and determine the costs of doing so, and

(b) order the person to whom the enforcement order was directed to provide security to the Minister in the form and amount the Minister considers necessary to cover those costs.

(6) Sections 90(3), 91(6) and (7), 92, 94, 95, 96, 99, 100(1)(a) and (c) and (2), 103, 105 and 106(a) and (b) of the *Environmental Protection and Enhancement Act* apply in the case of a notice of appeal submitted under this section, and for those purposes, section 95(5)(a)(v) of the *Environmental Protection and Enhancement Act* shall be read as if it made reference to an order for security under subsection (5) of this section.

7(1) Repealed 2002 c30 s10.

Offence

8(1) A person who knowingly contravenes an enforcement order under section 5 is guilty of an offence and liable to,

(a) in the case of an individual, a fine of not more than \$100 000 or to imprisonment for a period of not more than 2 years, or to both fine and imprisonment, or

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

(2) A person who contravenes an enforcement order under section 5 is guilty of an offence and liable to

(a) in the case of an individual, a fine of not more than \$50 000, or

(b) in the case of a corporation, a fine of not more than \$500 000.

(3) No person shall be convicted of an offence under subsection (2) if that person establishes on the balance of probabilities that the person took all reasonable steps to prevent its commission.

Regulations

9 The Lieutenant Governor in Council may make regulations

(a) prohibiting, regulating or requiring the doing of any act for the purpose of preventing, alleviating or stopping soil erosion or anything detrimental to the protection or preservation of a watershed;

(b) authorizing the payment of compensation by the Crown to any person for loss or damage to that person as a result of the application of any regulation under this Schedule to that person, or an order under this Schedule directed to that person, prescribing the cases in which the compensation must be paid and the loss or damage for which the compensation shall be paid, and conferring jurisdiction on the Court of Queen's Bench or the Alberta Utilities Commission in connection with settlement of the compensation to be paid;

(c) authorizing the Minister to expropriate on behalf of the Crown any estate or interest in land if the Minister considers it necessary to do so for the purpose of enforcing or carrying out the provisions of this Schedule or the regulations or an order under this Schedule;

(d) prescribing, with respect to any provision of any regulation under this Schedule, that its contravention constitutes an offence;

(e) prescribing penalties for offences against any regulations under this Schedule;

(f) empowering the Minister to prescribe forms for any document used in the course of administering this Schedule or any Act administered by the Minister;

(g) generally, providing for any procedure or matter incidental to the carrying out of this Schedule or any regulations under this Schedule.

RSA 2000 cG-10 Sched. 5; 2002 c30 s10; 2002 c32 s8; 2003 c42 s8; 2007 cA-37.2 s82(13)