
Fourth Session, 16th Legislature, 20 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 32

The Department of the Environment Act

THE HONORABLE MR. HENDERSON

First Reading

Second Reading

Third Reading

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BILL 32

1971

THE DEPARTMENT OF THE ENVIRONMENT ACT

(Assented to _____, 1971)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act

- (a) "Authority" means the Environment Conservation Authority;
- (b) "Co-ordinating Committee" means the Natural Resources Co-ordinating Committee;
- (c) "Department" means the Department of the Environment;
- (d) "government agency" means
 - (i) a corporation that is an agent of the Crown in right of Alberta, or
 - (ii) any corporation, commission, board or other body empowered to exercise quasi-judicial or governmental functions and whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council, or a Minister of the Crown, or any combination thereof;
- (e) "Minister" means the Minister of the Environment;
- (f) "natural resources" means land, plant life, animal life, water and air.

2. For the purposes of this Act, the following are matters pertaining to the environment:

- (a) the conservation, management and utilization of natural resources;
- (b) the prevention and control of pollution of natural resources;
- (c) the prevention of noise and the control of noise levels resulting from commercial or industrial operations in so far as they affect the environment in the vicinity of those operations;

Explanatory Notes

General. This Bill creates a new Department of the Environment and provides for a number of substantial measures for preventing, controlling and stopping the loss, damage or pollution of air, water and land and plant and animal life, and for co-ordinating government action in matters affecting the environment. See also the Bills for The Clean Air Act and The Clean Water Act.

1. Definitions.

2. Enumeration of matters pertaining to environment conservation.

- (d) economic factors that directly or indirectly affect the ability of persons to carry out measures that relate to the matters referred to in clauses (a), (b) and (c);
- (e) any operations or activities
 - (i) that adversely affect or are likely to adversely affect the quality or quantity of any natural resource, or
 - (ii) that destroy, disturb, pollute or alter or make use of a natural resource or are likely to do so;
- (f) the preservation of natural resources for their aesthetic value;
- (g) laws in force in Alberta that relate to or directly or indirectly affect the ecology of the environment or natural resources.

3. There shall be a department of the public service of the Province called the Department of the Environment over which shall preside the member of the Executive Council appointed by the Lieutenant Governor under the Great Seal of the Province as Minister of the Environment.

4. In accordance with The Public Service Act there shall be appointed a Deputy Minister of the Environment and such other employees as are required to carry on the business of the Department.

5. (1) The Minister may from time to time engage the services of experts or persons having special technical or other knowledge to advise him or to inquire into and report to him on matters under the Minister's administration.

(2) A person whose services are engaged under this section may be paid such remuneration and expenses as the Minister may prescribe.

6. (1) The Minister may establish such boards, committees or councils as he considers necessary or desirable to act in an advisory or administrative capacity in connection with any of the policies, programs, services or other matters under his administration.

(2) The Minister may, with respect to any board, committee or council established under this section,

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,

3. Establishment of Department.

4. Personnel.

5. Engagement of consultants.

6. Advisory boards, etc.

(c) designate a chairman, vice-chairman and secretary, and

(d) authorize, fix and provide for the payment of remuneration and expenses to its members.

(3) A board, committee or council established pursuant to this section may make rules of procedure, subject to the approval thereof by the Minister, governing the calling of meetings, the procedure to be used at and conduct of the meetings, reporting and such other matters as required.

(4) A board, committee or council established pursuant to this section may exercise such powers and shall perform such duties and functions as the Minister may approve, confer or impose upon it.

7. The Minister shall after the end of each year prepare a general report summarizing the transactions and affairs of the Department in that year and upon its completion, shall lay the report before the Legislative Assembly if it is then in session, and if not, within 15 days after the commencement of the first session next following the end of the year for which the report is made.

8. The Minister, in consultation with the Co-ordinating Committee,

(a) is responsible for the co-ordination of the policies, programs and services of and administrative procedures of, departments of the Government and of government agencies in matters pertaining to the environment;

(b) may, as the representative of the Government of Alberta, maintain a continuing liaison with the Government of Canada and agencies thereof, the governments of other provinces and territories and agencies thereof, and municipal corporations in Alberta, in relation to matters under the administration of the Minister;

(c) may, on behalf of the Government of Alberta and with the approval of the Lieutenant Governor in Council, enter into an agreement relating to any matter pertaining to the environment with the Government of Canada, the government of any province or territory of Canada, an agency of any of those governments, any municipal corporation in Alberta, or any other person;

(d) shall compile, study and assess information directly or indirectly related to matters pertaining to the environment with a view to using the results of such study and assessment for the purpose of better

7. Annual report.

8. General powers and responsibilities of the Minister.

carrying out his functions and responsibilities under this or any other Act and with a view to providing such information, or the results of such study and assessment, to departments of the Government and to government agencies, and to the public by way of publications, films, radio or television broadcasts or otherwise;

- (e) may carry out research projects related to matters pertaining to the environment;
- (f) shall conduct a continuing review of research related to any matter pertaining to the environment being carried out by the Government or government agencies or by others and shall promote the co-ordination of such research and of facilities used for such research;
- (g) may enter into an agreement with any person to carry out a research project related to a matter pertaining to the environment;
- (h) may make grants to any person or organization engaged in research in matters pertaining to the environment or in the promotion or encouragement of the improvement of the environment in Alberta or the prevention of the pollution, deterioration or impairment of the environment in Alberta;
- (i) may, generally, do such acts as he considers necessary to promote the improvement of the environment for the benefit of the people of Alberta and future generations.

9. (1) The Minister may, with the approval of the Lieutenant Governor in Council, purchase any estate or interest in land and any personal property in conjunction therewith

- (a) for the purpose of implementing or carrying out the provisions of any agreement or arrangement entered into between the Government of Canada and the Minister on behalf of the Government of Alberta, or
- (b) for the purpose of any program or development project relating to the conservation, utilization or management of natural resources, or
- (c) for the purposes of environmental conservation or improvement, the abatement or prevention of pollution of a natural resource, research or the disposal of toxic materials or for any other purpose in relation to a matter under the administration of the Minister.

(2) Land acquired under this section shall be under the administration of the Minister of Lands and Forests unless

9. Acquisition of land by the Minister.

the order of the Lieutenant Governor in Council specifies that it is under the administration of the Minister of the Environment.

10. (1) There is hereby established a committee called the "Natural Resources Co-ordinating Committee" consisting of

- (a) the Deputy Minister of the Environment, who shall be chairman,
- (b) the Deputy Minister of Agriculture,
- (c) a Deputy Minister of the Department of Health and Social Development designated by the Minister of Health and Social Development,
- (d) the Deputy Minister of Highways and Transport,
- (e) the Deputy Minister of Industry and Tourism,
- (f) the Deputy Minister of Lands and Forests,
- (g) the Deputy Minister of Mines and Minerals,
- (h) the Deputy Minister of Municipal Affairs, and
- (i) the chairman of the Energy Resources Conservation Board.

(2) Notwithstanding subsection (1), each member of the Co-ordinating Committee may appoint in writing a person to be an alternate member of the Co-ordinating Committee to act in his stead as a member of the Co-ordinating Committee in the event of his absence or inability to act.

(3) The chairman of the Conservation and Utilization Committee shall be secretary of the Co-ordinating Committee.

(4) The Co-ordinating Committee

- (a) may appoint a vice-chairman, and
- (b) make rules governing the calling of its meetings, the conduct of its meetings and any other matters pertaining to the conduct of its business and affairs.

(5) A majority of the members of the Co-ordinating Committee or their respective alternate members constitutes a quorum.

(6) The Co-ordinating Committee

- (a) may inquire into any matter pertaining to the environment,
- (b) may review any policies, programs, services or administrative procedures of departments of the Government or of government agencies in matters pertaining to the environment,

and shall make its recommendations and report thereon to the Minister.

10. Natural Resources Co-ordinating Committee.

(7) The Co-ordinating Committee may refer any matter pertaining to the environment to the Conservation and Utilization Committee for its recommendations and report thereon.

11. (1) There is hereby established a committee called the "Conservation and Utilization Committee" consisting of not less than 12 members appointed by the Minister in accordance with subsection (2).

(2) The members of the Conservation and Utilization Committee shall consist of employees of the Government or members or employees of government agencies, with at least one member from each of the following, namely,

- (a) the Department of Agriculture,
- (b) the Department of the Attorney General,
- (c) the Department of the Environment,
- (d) the Department of Health and Social Development,
- (e) the Department of Highways and Transport,
- (f) the Department of Industry and Tourism,
- (g) the Department of Lands and Forests,
- (h) the Department of Mines and Minerals,
- (i) the Department of Municipal Affairs,
- (j) the Energy Resources Conservation Board, and
- (k) the Research Council of Alberta.

(3) The Minister shall designate as chairman of the Committee one of the members who is an employee of the Department of the Environment.

(4) Notwithstanding subsections (1) and (2), each member of the Conservation and Utilization Committee appointed under subsection (2) shall appoint in writing a person to be an alternate member of the Committee to act in his stead as a member of the Committee in the event of his absence or inability to act.

(5) The Conservation and Utilization Committee

- (a) shall, at the direction of the Co-ordinating Committee, inquire into and study any matter pertaining to the environment, and
- (b) shall submit its recommendations and report thereon to the Co-ordinating Committee.

12. (1) Notwithstanding any other Act, the Lieutenant Governor in Council, upon the recommendation of the Minister, may by regulation require that the Minister of the Crown, government official or the government agency

11. Conservation and Utilization Committee.

12. Regulations prohibiting governmental action until its effects on the environment have been fully considered.

specified therein shall not exercise any specified power in all or any specified part of Alberta unless

- (a) the Minister of the Environment has first made a report to the Lieutenant Governor in Council as to the advisability of the action, having regard to its effects or possible effects on the environment, and
 - (b) the Lieutenant Governor in Council consents to the power being exercised.
- (2) The Lieutenant Governor in Council, in giving any consent referred to in subsection (1), clause (b), may make the consent subject to such conditions as he may prescribe.
- (3) The Minister, before making a report to the Lieutenant Governor in Council under subsection (1), clause (a), may refer the matter to the Authority or the Co-ordinating Committee for its report and recommendations thereon.

13. The Minister may, in co-operation with representatives of other departments of the Government of Alberta and of government agencies and, where advisable, with other persons including representatives of other governments, municipal corporations or organizations, formulate plans for effective co-ordinated action in cases of emergency to prevent, alleviate, control or stop the destruction or loss of, or damage to, a natural resource or to human beings as a result of the pollution of a natural resource.

14. (1) Upon the report of the Minister

- (a) that circumstances exist whereby a natural resource in any part of Alberta has been or is being destroyed or damaged or is being or is likely to be 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) Where the Lieutenant Governor in Council has made an order under subsection (1), the Minister or any employee of the Department authorized by him for the purpose, may

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

13. Formulation of plans for co-ordinated action in emergency cases involving loss, damage or pollution of a natural resource.

14. Commandeering of men and equipment by the Minister in emergencies involving actual or potential loss, damage or pollution of a natural resource.

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 request directed to him under subsection (2) is guilty of an offence and liable on summary conviction 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), clause (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.

15. (1) The Lieutenant Governor in Council may by regulation establish any part or parts of Alberta as a "Restricted Development Area" (in this section called "the Area") upon 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, controlling, alleviating or stopping the destruction, damage or pollution of any natural resources in the Area, or
- (b) protecting a watershed in the Area, or
- (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, or
- (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.

(2) Notwithstanding any other Act, where the Lieutenant Governor in Council establishes a Restricted Development Area, he 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;

15. Restricted Development Areas and regulations controlling land use and development within them.

- (b) 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;
- (c) the removal of any buildings, improvements, materials or animals from the Area, and the payment of compensation by the Crown for any loss resulting therefrom;
- (d) the control, restriction or prohibition of the dumping, deposit or emission within the Area of any substance specified in the regulations;
- (e) the authorizing of the acquisition by purchase or expropriation by the Minister of any estate or interest in land in the Area;
- (f) making any or all of the provisions of The Right of Entry Arbitration Act inapplicable to lands of the Crown in the Area;
- (g) making any or all of the provisions of Part 3 of The Expropriation Procedure Act inapplicable to lands of the Crown in the Area;
- (h) any other matter or thing necessary or incidental to the protection or improvement of the environment of the Area.

16. (1) Where the Minister is satisfied that any person

- (a) has contravened or is contravening this Act or a regulation or order under this Act, or
- (b) has contravened or is contravening any other Act or any regulation or order thereunder and the contravention, in the opinion of the Minister, is causing or is likely to cause the destruction, damage or pollution of a natural resource,

the Minister may issue an order (in this section called a "stop order") to that person in accordance with subsection (2).

(2) In a stop order, the Minister may require that the person to whom it is directed

- (a) cease the contravention specified in the order, and
- (b) stop any operations or shut down or stop the operation of any plant, equipment or structure either permanently or for a specified period,

and the stop order shall contain the reasons for making it.

(3) Not less than 48 hours after making a stop order, the Minister shall cause a copy of it to be served on the person to whom it is directed, and upon receipt of such copy, the person to whom the stop order is directed shall comply with the order forthwith.

16. "Stop orders" by the Minister to cease contraventions of the law or to shut down plants or operations in cases of actual or threatened pollution of the environment or destruction of or damage to natural resources.

(4) A person to whom a stop order is directed and who fails to comply with the order forthwith upon service of a copy of it upon him or subsequently, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 for each day that the offence continues or to a term of imprisonment of not more than 12 months or to both the fine and imprisonment.

(5) Where the person to whom a stop order is directed fails to comply with the order forthwith upon service of a copy of it upon him or subsequently, the Minister may apply to the Supreme Court of Alberta by way of originating notice of motion for an order of the Court directing that person to comply with the stop order.

(6) Where the person to whom a stop order is directed fails to comply with the stop order forthwith upon service of a copy of the order of the Supreme Court under subsection (5) upon him or subsequently,

- (a) the failure to comply with the stop order may be dealt with by the Court as in the case of a civil contempt of the Court,
- (b) an officer of the Department authorized by the Minister for the purpose and any other persons assisting that officer, may, without further leave of the Court and without incurring liability therefor, enter upon any land and do any acts that are necessary to carry out the stop order,
- (c) the sheriff, the sheriff's bailiff and any other person under the written direction of the sheriff may assist the officer of the Department and other persons in enforcing their powers and duties under clause (b), and
- (d) the Minister may recover by action any expenses incurred by the Government in carrying out the stop order pursuant to clause (b) from the person to whom the stop order was directed.

(7) A person to whom a stop order is directed may, within 15 days after service upon him of a copy of the stop order, appeal to the Minister in accordance with the regulations for an inquiry into the stop order.

(8) Where an appeal is made under subsection (7), the Minister shall refer the appeal and the stop order to the Authority for an inquiry.

(9) The Authority shall

- (a) hold a hearing to inquire into all matters leading to the making of the stop order, and
- (b) determine whether, in its opinion, there were sufficient grounds for the making of the stop order,

and upon completion of the inquiry the Authority shall report its findings to the Minister together with any recommendations it wishes to make in regard to the confirmation, amendment or revocation of the stop order.

(10) Upon receipt of the report of the Authority the Minister shall either confirm, amend or revoke the stop order and shall notify accordingly the person to whom it is directed.

(11) The Minister may

(a) amend a stop order if he considers it advisable in the circumstances to do so, or

(b) revoke a stop order,

and shall notify accordingly the person to whom the stop order was directed.

(12) This section applies whether or not the contravention of the Act, regulation or order concerned constitutes an offence, and whether or not a conviction has been adjudged for the offence.

(13) This section does not apply to contraventions of The Clean Air Act or The Clean Water Act or of regulations or orders under either of them.

17. 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) requiring persons owning, possessing or having rights in respect of land to use or refrain from using that land in any manner detrimental to the environment of that land and other lands in the vicinity thereof;

(c) subject to The Surface Reclamation Act, prescribing the duties of any person conducting sand or gravel removal operations, or any kind of operations that result in the destruction or disturbance of the surface of land, with respect to conservation of the soil and the reclamation of the surface of that land, and conferring powers on the Minister relating to such soil conservation and reclamation;

(d) controlling, restricting or prohibiting any actions of any person for the purpose of abating noise or controlling noise levels;

(e) 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 regula-

17. Regulations of the Lieutenant Governor in Council.

tion under this Act to him or an order under this Act directed to him, prescribing the cases in which the compensation shall be paid and the loss or damage for which the compensation is to be paid, and conferring jurisdiction on the Supreme Court of Alberta, the district courts or the Public Utilities Board in connection with settlement of the compensation to be paid;

- (f) authorizing the Minister to expropriate on behalf of the Crown any estate or interest in land if he considers it necessary to do so for the purpose of enforcing or carrying out the provisions of this Act or the regulations or an order under this Act;
- (g) prohibiting or restricting the manufacture, sale or use of any substance that is or may be detrimental to the quality of the environment by reason of its toxicity or otherwise;
- (h) prescribing procedures for the disposal of any substance that is or may be detrimental to the quality of the environment;
- (i) providing the procedures in respect of appeals under section 16 and of inquiries held under that section;
- (j) prescribing, with respect to any provision of any regulations under this Act, that its contravention constitutes an offence;
- (k) prescribing penalties for offences against any regulations under this Act;
- (l) empowering the Minister to prescribe forms for any document used in the course of administering this Act or any other Act administered by the Minister;
- (m) generally, providing for any procedure or matter incidental to the carrying out of the provisions of this Act or any regulations under this Act.

Consequential Amendments

18. The Environment Conservation Act is amended

- (a) *as to section 2 by striking out clause (b),*
- (b) *as to section 7, clauses (g), (i) and (j) by striking out the words "Conservation and Utilization Committee" wherever they occur and by substituting the words "Department of the Environment",*
- (c) *by striking out sections 8, 9 and 10,*
- (d) *as to section 11,*
 - (i) *by striking out the words "Lieutenant Governor in Council" and by substituting the word "Authority",*

13. Amends chapter 125 of the Revised Statutes of Alberta 1970 to remove provisions relating to the Conservation and Utilization Committee. This Committee will now be constituted under section 11 of this Bill. The amendments to sections 11 and 12 transfer the power to appoint and prescribe the functions of public advisory committees from the Lieutenant Governor in Council to the Authority. The Lieutenant Governor in Council will under section 12, retain the power to prescribe rates of remuneration for expenses of members.

- (ii) *by adding the word "and" at the end of clause (a) and by striking out the word "and" at the end of clause (b),*
- (iii) *by striking out clause (c),*
- (e) *as to section 12*
 - (i) *in clause (a) by striking out the words "the Conservation and Utilization Committee",*
 - (ii) *by striking out the word "and" at the end of clause (a) and by adding after clause (a) the following:*
 - (a1) *prescribing the rates of remuneration to be paid to members of a public advisory committee for their travelling and living expenses incurred in the course of their duties as members of a committee, and*

19. The Irrigation Act is amended

- (a) *as to section 2 by striking out clause 16 and by substituting the following:*
 - 16. "Minister" means the member of the Executive Council charged with the administration of this Act;
- (b) *as to section 4, subsection (2), clause (b) by striking out the words "Department of Agriculture" and by substituting the words "Minister's department",*
- (c) *as to section 6, subsection (1) by striking out the words "Department of Agriculture" and by substituting the words "Minister's department".*

20. The Public Health Act is amended

- (a) *as to section 3, subsection (1), clause (b) by striking out the words "Division of Environmental Health of the Department of Health" and by substituting the words "Division of Pollution Control of the Department of the Environment",*
- (b) *as to section 3 by striking out subsection (3) and by substituting the following:*
 - (3) *In accordance with The Public Service Act there shall be appointed a Director of the Provincial Laboratory of Public Health.*

19. Amends chapter 192 of the Revised Statutes of Alberta 1970.

20. Amends chapter 294 of the Revised Statutes of Alberta 1970.
Other consequential amendments to The Public Health Act in
respect of air and water pollution are found in the Bills for The
Clean Air Act and The Clean Water Act.

(c) by adding the following section after section 10:

Abatement of Nuisance:

10.1 (1) The Provincial Board may inquire into and hear and determine any complaint made by or on behalf of any person in respect of a nuisance.

(2) The Provincial Board may make a report upon such complaint and as to what remedial measures, if any, that it considers are required in respect of the nuisance complained of.

(3) Where the report of the Provincial Board recommends the removal of any thing causing a nuisance or the abatement of a nuisance, the Minister or the complainant may apply to the Supreme Court or to a district court by way of originating notice of motion for an order

- (a) for the removal of the cause of the nuisance or abatement of the nuisance in terms of the report of the Provincial Board, and
- (b) to restrain the persons from continuing the nuisance, or any other persons from continuing the acts complained of, until the nuisance has been abated, or the cause of the nuisance removed, to the satisfaction of the Provincial Board.

(4) The judge may, upon the report of the Provincial Board, or upon such further evidence as he thinks necessary, make such order and on such terms and conditions as he considers proper.

21. This Act comes into force on a date or dates to be fixed by Proclamation.