

1972 Bill 92

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 92

The Clean Water Amendment Act, 1972

MR. COOKSON

First Reading

Second Reading

Third Reading

BILL 92

1972

THE CLEAN WATER AMENDMENT ACT, 1972

(Assented to _____, 1972)

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

1. *The Clean Water Act is hereby amended.*
2. *Section 1 is amended*
 - (a) *by striking out clause (c) and by substituting the following:*
 - (c) "Director of Standards and Approvals" and "Director of Pollution Control" mean respectively the Director of the Division of Standards and Approvals of the Department of the Environment and the Director of the Division of Pollution Control of the Department of the Environment;
 - (b) *by adding the following clause after clause (d):*
 - (d1) "licence" means a licence to operate a water facility issued by the Director of Standards and Approvals in accordance with section 4.1 or section 4.2;
 - (c) *by adding the following clause after clause (e):*
 - (e1) "permit" means a permit to construct a water facility issued by the Director of Standards and Approvals in accordance with section 4 or section 4.2;
 - (d) *by striking out clause (l) and by substituting the following:*
 - (l) "water contaminant" means
 - (i) any solid, liquid, gas or combination of any of them specified in the regulations as a water contaminant, or
 - (ii) heat in water as a result of the change in temperature of surface water specified in the regulations;
 - (e) *by striking out clause (o) and by substituting the following:*
 - (o) "water pollution" means
 - (i) the presence in water of any water contaminant in excess of the permissible concentration prescribed by the regulations for that water contaminant, or

Explanatory Notes

1. This Bill will amend chapter 17 of the Statutes of Alberta, 1971.

2. Section 1, clauses (c), (l), (o), (p) and (q) presently read:

1. In this Act

- (c) "Director" means the Director of the Division of Pollution Control of the Department;
- (l) "water contaminant" means any solid, liquid or gas or combination of any of them, or heat, in water as a direct or indirect result of activities of man;
- (o) "water pollution" means
 - (i) the presence in water of any water contaminant in excess of the maximum permissible concentration prescribed by the regulations for that water contaminant, or
 - (ii) a change of the temperature of water resulting directly or indirectly from the activities of man to a temperature in contravention of the regulations;
- (p) "water quality control order" means an order of the Director under section 6;
- (q) "waterworks system" means any system of plants, structures, equipment, pipes, apparatus or other things for the obtaining, treating, purifying, disinfecting, distributing or supplying of water intended to be used for human consumption or in swimming pools and, without limitation, includes aqueducts, cisterns, culverts, cuts, flumes, mains, pumps, reservoirs, tanks, engines and machinery used in connection with the system.

- (ii) a change of the temperature of water in contravention of the regulations;
- (f) *as to clause (p) by striking out the word "Director" and by substituting the words "Director of Pollution Control",*
- (g) *as to clause (q) by adding after the word "plants" the word ", wells".*

3. Sections 3, 4 and 5 are struck out and the following sections are substituted:

3. (1) The Minister may make regulations

- (a) prescribing water contaminants and the permissible concentration in surface water of any water contaminant either generally or with respect to any part of Alberta or any watercourse specified in the regulations;
- (b) prescribing methods for determining the concentration in surface water of any water contaminant for the purposes of regulations under clause (a);
- (c) prescribing the maximum temperature or the permissible changes in temperatures of surface water, either generally or with respect to any part of Alberta or any watercourse specified in the regulations;
- (d) prescribing the calculated water contaminant standard in surface water for any water contaminant for all or any part of Alberta;
- (e) prescribing the maximum concentration of any water contaminant discharged into surface water or a watercourse from any water facility;
- (f) prescribing the maximum amount of any water contaminant discharged into surface water or a watercourse from any water facility;
- (g) prescribing the method or type of method or instrument for measuring
 - (i) the level of density of any water contaminant,
 - (ii) the calculated water contaminant standard of any water contaminant,
 - (iii) the concentration of any water contaminant discharged to any surface water or watercourse from any water facility,
 - (iv) the amount of any water contaminant discharged to any surface water or watercourse from any water facility;
- (h) prescribing the method or type of method or instrument for measuring the rate of release of any water contaminant;

3. Sections 3, 4 and 5 presently read:

3. (1) Subject to subsection (2), the Minister may make regulations
- (a) prescribing maximum permissible concentration in water of any water contaminant either generally or with respect to any part of Alberta or any watercourse specified in the regulations, and
 - (b) prescribing methods for determining the concentration in water of any water contaminant for the purposes of regulations under clause (a),
 - (c) prescribing maximum permissible changes in temperatures of surface water, either generally or with respect to any part of Alberta or any watercourse specified in the regulations.

(2) Regulations under this section shall not prescribe a maximum permissible concentration in water of any water contaminant in excess of the maximum permissible concentration prescribed by the Provincial Board of Health regulations for that water contaminant for the same part of Alberta or the same watercourse.

4. (1) Subject to the regulations, no person shall commence the construction of

- (a) a waterworks system, or
- (b) a waste water treatment facility, or
- (c) a sewer or sewerage project, or
- (d) a swimming pool other than one in or appurtenant to a one-family dwelling,
- (e) any plant, structure or thing designed for use in preventing or controlling water pollution or regulating water quality, or
- (f) any plant, structure or thing, where the Director has, prior to the commencement of construction, notified that person in writing that the proposed plant, structure or thing will, in the Director's opinion, be a source of water pollution and that it is subject to this section, or
- (g) any other type of plant, structure or thing specified in the regulations as being subject to this section, or
- (h) any alteration or addition to anything mentioned in clauses (a) to (g),

unless the plans and specifications therefor are approved by the Director.

(2) Plans and specifications submitted to the Director under this section shall

- (a) show the location of the water facility, its size and capacity, the nature of manufacturing, processing or other operation for which it is to be used and the method by which any water contaminant will be released therefrom, and
- (b) be in such detail as the Director may require.

(3) The Director may require the applicant for an approval under this section to submit to him any additional information that the Director considers necessary regarding the proposed water facility.

(4) The Director may give or refuse to give his approval of the plans or specifications or may require a change in location of the water facility or a change in the plans and specifications as a condition precedent to giving his approval under this section.

(5) The Director may

- (a) make his approval under this section subject to such conditions as he prescribes;
- (b) specify requirements as to the manner and frequency of recording concentrations of water contaminants discharged or caused by the water facility that is the subject of the approval;
- (c) specify requirements as to the manner in which the water facility is to be operated.

(6) The Crown is bound by subsections (1) to (5).

- (i) prescribing the point at which any measurement pursuant to the regulations is to take place in, on or outside any water facility in any surface water or watercourse;
- (j) defining the words "construction" and "operation" in section 4 and the regulations and the expression "calculated water contaminant standard" in this section and the regulations.

(2) Regulations made under subsection (1) shall not prescribe a permissible concentration in water of any water contaminant in excess of the permissible concentration prescribed by the Provincial Board of Health regulations for that water contaminant for the same part of Alberta or the same watercourse.

4. (1) Subject to the regulations, no person shall commence the construction of

- (a) a waterworks system, or
- (b) a waste water treatment facility, or
- (c) a sewer or sewerage project, or
- (d) a swimming pool other than one in or appurtenant to a one-family dwelling, or
- (e) any plant for the manufacture of petroleum products, natural gas products, chemical and allied products, pulp and paper products, steel, clay or glass products, cement and lime products, fertilizers or animal by-products, or
- (f) any plant for primary metal production, metal processing, the processing of wood or wood products, the processing of coal, the processing of natural gas or its derivatives, the manufacture of asphalt or ready-mixed concrete or gravel crushing, or
- (g) meat packing, food processing or beverage processing plants, or
- (h) any thermal electric power generating plant or any steam generating plant, or
- (i) any plant, structure or thing designed for use in preventing or controlling water pollution or regulating water quality, or
- (j) any plant, structure or thing where the Director of Standards and Approvals has, prior to the commencement of construction, notified that person in writing that the proposed plant, structure or thing will, in the Director of Standards and Approvals' opinion, be a source of water pollution and that it is subject to this section, or

(7) Where any person has commenced the construction of anything in contravention of subsection (1) the Director may cause to be served on that person a notice directing him to cease the construction work forthwith until he has complied with subsection (1).

(8) Where any person is constructing anything referred to in subsection (1) either not in accordance with the approved plans and specifications or in contravention of the conditions of the approval prescribed by the Director, the Director may cause to be served on that person a notice directing him to cease the construction forthwith until he satisfies the Director that the thing to be constructed will be constructed in accordance with the approved plans and specifications and the conditions of the approval.

(9) Any person who fails to comply with a notice given to him under subsection (7) or (8) upon service of the notice or subsequently, is guilty of an offence and liable on summary conviction to a fine not exceeding \$1000 for each day during which any construction work was done in contravention of the notice.

(10) Where any person fails to comply with a notice given to him under subsection (7) or (8) upon service of the notice or subsequently, the Director may apply by way of originating notice of motion to the Supreme Court for an order directing that person to comply with the notice.

(11) A person who operates any water facility

- (a) where the plans and specifications therefor were not approved by the Director under subsection (1) and where construction was commenced after the coming into force of this section, or
- (b) in contravention of the terms or conditions of an approval of the Director,

is guilty of an offence.

Section 4 presently requires that every person obtain an "approval" from the Director of Pollution Control before starting construction of a water facility specified in section 4, subsection (1).

The result of the amendments to section 4, coupled with the new section 4.1 will be that before a water facility becomes operational it will require from the Director of Standards and Approvals

- (a) a permission to construct (a permit), and
- (b) after construction, but before operations start, a licence to operate (a licence).

5. (1) The Lieutenant Governor in Council may by regulation designate any officer of the Crown or any government agency as a person who shall exercise the powers of the Director under section 4 with respect to

- (a) any specified class of plants, structures or things referred to in section 4, subsection (1), clauses (a) to (f) or in the regulations under section 10, clause (c), or
- (b) any alteration or addition to anything specified in the regulations pursuant to clause (a).

(2) Where a regulation is made under subsection (1) then unless the regulation provides otherwise,

- (a) a reference to the Director in section 4, 6, 7 or 8 shall be deemed to refer instead to the officer of the Crown or government agency so designated by the regulation, and
- (b) a reference to the Division of Pollution Control in section 8 shall be deemed to refer instead, as the case requires, to the department of the government of which the officer so designated by the regulation is an employee or to the government agency so designated by the regulation.

- (k) any other type of plant, structure or thing specified in the regulations as being subject to this section, or
 - (l) any alteration or addition to anything mentioned in clauses (a) to (h),
- unless the Director of Standards and Approvals issues a permit therefor.
- (2) A person shall apply for a permit in accordance with the regulations, but each application for a permit shall include plans and specifications which shall
- (a) show the location of the water facility, its size and capacity, the nature of manufacturing, processing or other operation for which it is to be used and the method by which any water contaminant will be released therefrom, and
 - (b) be in such detail as the Director of Standards and Approvals may require.
- (3) The Director of Standards and Approvals may require the applicant for a permit to submit to him any additional information that the Director of Standards and Approvals considers necessary regarding the proposed water facility.
- (4) The Director of Standards and Approvals may issue or refuse to issue a permit or may require a change in location of the water facility or a change in the plans and specifications as a condition precedent to giving a permit under this section.
- (5) The Director of Standards and Approvals may
- (a) issue a permit subject to such terms and conditions as he prescribes,
 - (b) specify requirements as to the manner and frequency of recording concentrations of water contaminants discharged or caused by the water facility that is the subject of the permit, and
 - (c) specify requirements as to the manner in which the water facility is to be tested or operated before normal operations commence.
- (6) The Crown is bound by subsections (1) to (5).
- (7) Where any person has commenced the construction of any thing in contravention of subsection (1), the Director of Standards and Approvals may cause to be served on that person a notice directing him to cease the construction work forthwith until he has complied with subsection (1).
- (8) Where the Director of Standards and Approvals issues a permit for a water facility
- (a) which has not been completely planned or designed, or

- (b) for which changes in the plans or design are proposed before operations commence,

the Director of Standards and Approvals may, upon application therefor, issue one or more amendments to the permit for

- (c) the additional construction to complete the water facility, or
- (d) the change in the design or the plans and specifications of the water facility,

and impose such terms and conditions in connection with the amendment to the permit as he considers necessary.

(9) Where any person is constructing any thing referred to in subsection (1), either not in accordance with

- (a) the permit issued to him, or
- (b) the plans and specifications submitted to the Director of Standards and Approvals, or
- (c) the terms and conditions of the permit,

the Director of Standards and Approvals may cause to be served on that person a notice directing him to cease the construction forthwith until he satisfies the Director of Standards and Approvals that the water facility to be constructed will be constructed in accordance with the permit and terms and conditions attached thereto and the plans and specifications upon which the permit was issued.

(10) Any person who fails to comply with a notice given to him under subsection (7) or (9) upon service of the notice or subsequently, is guilty of an offence and liable on summary conviction to a fine not exceeding \$1000 for each day during which any construction work was done in contravention of the notice.

(11) Where any person fails to comply with a notice given to him under subsection (7) or (9) upon service of the notice or subsequently, the Director of Standards and Approvals may apply by way of originating notice of motion to the Supreme Court for an order directing that person to comply with the notice.

(12) A person who commences or continues construction of a water facility

- (a) without a permit, or
- (b) in contravention of a permit or the terms and conditions attached thereto,

is guilty of an offence.

4.1 (1) No person shall commence the operation or use of a water facility unless he is the holder of a licence in respect of the water facility.

(2) Upon or shortly before completion of the construction of a water facility, the person who intends to operate or use the water facility shall apply to the Director of Standards and Approvals in accordance with the regulations for the issue of a licence.

(3) The Director of Standards and Approvals may require the applicant for a licence to show that

- (a) the water facility was constructed in accordance with the permit,
- (b) the terms and conditions attached to the permit have been satisfactorily met, and
- (c) the person will operate the water facility in accordance with the licence applied for.

(4) The Director of Standards and Approvals may require the applicant for a licence to submit to him any additional information that the Director of Standards and Approvals considers necessary regarding the construction or the future operation of the water facility or any matter connected therewith.

(5) Upon satisfying himself that a licence should be issued, the Director of Standards and Approvals may issue a licence of such type for such period of time and subject to such conditions as may be prescribed in the regulations.

(6) Notwithstanding subsection (5), and notwithstanding anything contained in the regulations, the Director of Standards and Approvals may

- (a) impose special terms and conditions with respect to any licence he issues, and
- (b) specify the requirements as to the manner in which the water facility is operated.

(7) The Crown is bound by subsections (1) to (6).

(8) A person who

- (a) fails to comply, or
- (b) contravenes,

a term or condition of a licence is guilty of an offence.

4.2 (1) No person shall alter, add to or in any other manner change a water facility that is the subject of a permit or licence unless a permit to alter, add to or otherwise change the water facility is issued by the Director of Standards and Approvals.

(2) A person who wishes to add to, alter or in any other manner change a water facility shall apply to the Director of Standards and Approvals and the application shall be dealt with by the Director of Standards and Approvals in accordance with the regulations.

(3) Where the alteration, addition or change is made to a water facility for which a licence has been issued, the applicant shall apply for a new licence or amendment to the existing licence with respect to the alteration, addition or change in accordance with the regulations and the Director of Standards and Approvals has the same power with respect to an application under this section as he has under section 4 and section 4.1.

(4) Where an amendment is issued in respect of a permit or licence under this section or section 4.1 or section 4.4 the amendment and any terms or conditions attached thereto shall be deemed to form part of the permit or licence.

(5) This section does not apply to

- (a) adjustments, repairs or maintenance made in the course of normal operations of the water facility, or
- (b) minor improvements to an existing water facility, or
- (c) changes made in an emergency.

(6) Where changes are made in an emergency, complete particulars thereof shall be forwarded to the Director of Standards and Approvals immediately they are made.

4.3 No person shall transfer, sell, lease or otherwise dispose of a permit or licence.

4.4 (1) Where it appears to the Director of Standards and Approvals that a term or condition of a permit or licence issued by him is unnecessary, he may delete it upon application of the person who holds the permit or licence.

(2) The Director of Standards and Approvals may cancel a permit or licence issued in error or amend a clerical error in a permit or licence.

(3) The Director of Standards and Approvals may cancel a permit and licence upon application of the person who holds the permit or licence.

4.5 Before the expiration of the term of a licence, the applicant may apply for a renewal of the licence in accordance with the regulations and the same powers of the Director of Standards and Approvals apply with respect to the application and renewal of a licence as apply to a first application for a licence.

4.6 (1) Where any plan, specification or other information is sent to the Director of Standards and Approvals or the Director of Pollution Control in accordance with this Act or the regulations, the Director of Standards and Approvals or the Director of Pollution Control may refuse to accept the plan, specification or other information unless it is certified as accurate by a person who, in the opinion of the Director of Standards and Approvals or the Director of Pollution Control, is qualified to do so.

(2) Any person who supplies false information or makes inaccurate or untrue statements in any plan, specification or other information required to be supplied by this Act or the regulations, is guilty of an offence.

5. (1) The Lieutenant Governor in Council may by regulation designate any officer of the Crown or any government agency as a person who shall exercise the same power and authority as the power of the Director of Pollution Control

(a) under section 6 or section 8, or

(b) pursuant to the regulations made under section 10.

(2) Where a regulation is made under subsection (1), unless the regulation provides otherwise

(a) a reference to the Director of Pollution Control in section 6, 7 or 8 shall be deemed to refer, in addition to the Director of Pollution Control, to the officer of the Crown or government agency so designated by the regulation, and

(b) a reference to the Division of Pollution Control in section 8 shall be deemed to refer in addition to the Division of Pollution Control, as the case requires, to the department of the Government of which the officer so designated by the regulation is an employee or to the government agency so designated by the regulation.

4. Section 6 is amended

(a) *by striking out subsection (1) and by substituting the following subsections:*

6. (1) Where it appears to the Director of Pollution Control that any surface water or underground fresh water in any part of Alberta

(a) contains a water contaminant in concentrations that exceed or in the opinion of the Director of Pollution Control will exceed the permissible concentration in water prescribed for that water contaminant in the regulations, or

(b) contains a water contaminant that exceeds or in the opinion of the Director of Pollution Control will exceed the permissible calculated water contaminant standard for that water contaminant in the regulations, or

(c) contains a water contaminant in concentrations that exceed or in the opinion of the Director of Pollution Control will exceed the concentration permitted to be emitted from any water facility, or

4. Section 6 presently reads:

6. (1) Where it appears to the Director that any surface water or underground fresh water in any part of Alberta
- (a) contains a water contaminant in concentrations that exceed the maximum permissible concentrations in water prescribed for that water contaminant by the regulations, or
 - (b) contains a water contaminant that in his opinion will exceed the maximum permissible level of concentration for that contaminant in the absence of an order or orders under this section, or
 - (c) has undergone or is likely to undergo a change in temperature as a direct or indirect result of an activity of man, in contravention of the regulations under section 3, subsection (1), clause (c)
- the Director may issue one or more orders, called "water quality control orders", directed at persons owning or operating any plants, structures or things that the Director considers to be sources of the water contaminant or the change in temperature.
- (2) The Director may, in a water quality control order, order the person to whom it is directed,
- (a) to limit or control the rate of discharge of the water contaminant by the plant, structure or thing in accordance with the directions specified in the order;
 - (b) to do any act to limit or control the source of the heat causing the temperature change referred to in subsection (1), clause (c);
 - (c) to refrain from discharging the water contaminant or causing the source of heat either permanently or for a specified period or during the times or in the circumstances specified in the order;
 - (d) to comply with any directions specified in the order relating to the manner in which the water contaminant or source of heat may be discharged or the procedures to be followed in the control or elimination of the discharge of the water contaminant or the source of the heat;
 - (e) to instal, replace or alter any equipment or thing designed to control or eliminate the discharge of the water contaminant or the source of the heat.
- (3) A person to whom a water quality control order is directed shall comply with the order forthwith upon service of a copy of it upon him unless the order specifies a future date by which the order is to be complied with.
- (4) The Director shall cause a copy of a water quality control order to be served upon the person to whom it is directed either personally or by mail.
- (5) The Director may issue a water quality control order notwithstanding that the plant, structure or thing owned or operated by the person to whom the order is directed
- (a) was approved as to its plans and specifications by the Director pursuant to section 4, or
 - (b) is at the time the order is made being operated in accordance with the approval.
- (6) The Director may, by a further order, amend, replace or revoke a water quality control order and in each case shall cause a copy of the order to be served on the person to whom the water quality control order was directed.
- (7) Where a water quality control order is directed to a municipal corporation and it is necessary for the municipal corporation to borrow money to meet expenditures required to comply with the order, a by-law made by the council of the municipal corporation to authorize the borrowing does not require the assent of the proprietary electors.
- (8) A person to whom a water quality control order is directed who does not comply with the order is guilty of an offence.

- (d) contains a water contaminant in amounts that exceed or in the opinion of the Director of Pollution Control will exceed the amount permitted to be released from any water facility specified in the regulations, or
- (e) contains a water contaminant having a disagreeable appearance, or
- (f) has undergone or is likely to undergo a change in temperature in contravention of the regulations,

the Director of Pollution Control may issue one or more orders (in this section called "water quality control orders"), directed at persons owning or operating any water facility or plants, structures or things that the Director of Pollution Control considers to be the source of, or one of the sources of the water contaminant or the change in temperature.

(1.1) Where it appears to the Director of Pollution Control that a term or condition of a licence has been, or is about to be contravened, the Director of Pollution Control may issue a water quality control order directed at the person owning or operating the water facility or the plant, structure or thing that is the subject of the licence.

- (b) *as to subsections (2), (4) and (6) by striking out the word "Director" wherever it occurs and in each case by substituting the words "Director of Pollution Control",*
- (c) *by striking out subsection (5) and by substituting the following subsection:*

(5) The Director of Pollution Control may issue a water quality control order notwithstanding that the water facility owned or operated by the person to whom the order is directed

- (a) was the subject of a permit or licence pursuant to section 4, 4.1 or 4.2, or
- (b) is at the time the order is made being operated in accordance with a licence.

5. *Section 7 is amended*

- (a) *as to subsection (1)*
 - (i) *clause (b), by striking out the word "Director" and by substituting the words "Director of Pollution Control",*
 - (ii) *by adding the word "or" at the end of clause (c) and by adding the following clause after clause (c):*
 - (d) has contravened a term or condition of a licence,

5. Section 7, subsections (1), (3) and (9) presently read:

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

- (a) has contravened or is contravening a provision of this Act or a regulation or order under this Act, or
- (b) has failed to comply with an order or direction of the Director under this Act or under the regulations, or
- (c) owns or operates any plant, structure or thing that is a source of water pollution which the Minister considers to be an immediate danger to human life or property or both,

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

(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.

(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.

- (b) *as to subsection (3) by striking out the words “Not less than” and by substituting the words “Not more than”,*
- (c) *as to subsection (9) by striking out clause (a) and the words preceding clause (a) and by substituting the following:*
 - (9) The Authority shall, within 30 days of a reference to it by the Minister
 - (a) hold a public hearing to inquire into all matters leading to the making of the stop order, and.

6. *Section 8 is amended*

- (a) *by striking out subsections (1) and (2) and by substituting the following subsections:*

8. (1) The Director of Standards and Approvals, or the Director of Pollution Control or any employee of the Division of Standards and Approvals or the Division of Pollution Control may, without incurring liability therefor, enter into any land or premises for the purpose of

- (a) investigating and inspecting and carrying out tests at any water facility, or
- (b) examining, making copies of or taking extracts from, any records of a person owning or operating a water facility or a plant, structure or thing pursuant to an investigation, inspection or test under clause (a), or
- (c) carrying out any powers or duties conferred or imposed on either the Director of Standards and Approvals or the Director of Pollution Control by this Act or the regulations.

(2) Where the Director of Standards and Approvals or the Director of Pollution Control, or any employee of the Division of Pollution Control or the Division of Standards and Approvals wishes to enter any lands or premises pursuant to subsection (1) and is prevented from entering, the Director of Standards and Approvals or the Director of Pollution Control may apply to the Supreme Court by way of originating notice of motion for an order permitting either the Director of Standards and Approvals or the Director of Pollution Control or any employee of either Division to enter the lands or premises for the purposes specified in the order and the order so made may be enforced by a sheriff.

- (b) *as to subsection (3) by striking out the word “Director” wherever it occurs and by substituting in each case the words “Director of Pollution Control”.*

6. Section 8 presently reads:

8. (1) The Director or any employee of the Division of Pollution Control authorized by the Director may, without incurring liability therefor, enter into any land or premises for the purpose of

- (a) investigating and inspecting and carrying out tests at any water facility or any plant, structure or thing that he on reasonable grounds believes is or contains a source of water pollution, or
- (b) examining, making copies of or taking extracts from, any records of a person owning or operating a water facility or a plant, structure or thing that he on reasonable grounds believes is or contains a source of water pollution, if the records relate to the concentration of water contaminants in water or the temperature of surface water, or
- (c) carrying out any powers or duties conferred or imposed on the Director by this Act or the regulations.

(2) Where the Director or employee wishes to enter any lands or premises pursuant to subsection (1) and is prevented from entering, the Director may apply to the Supreme Court by way of originating notice of motion for an order permitting the Director or any employee of the Division of Pollution Control authorized by the Director to enter the lands or premises for the purposes specified in the order, and an order so made may be enforced by the sheriff.

(3) The Director may direct the owner or operator of any water facility or plant, structure or thing to provide to the Director any records or other information specified in the direction within the time limited in the direction, if the data, records or other information relate to the discharge of water contaminants or the increase of the temperature of surface water by that water facility, plant, structure or thing.

(4) A person who fails to comply with a direction given to him pursuant to subsection (3) within the time limited in the direction is guilty of an offence and liable on summary conviction to a fine of not more than \$1000 for each day that the contravention continues.

7. *The following section is added after section 9:*

9.1 (1) Subject to subsection (2), no person shall deposit or permit the deposit of a deleterious substance of any type in a watercourse or in surface water or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any watercourse or any surface water.

(2) Subsection (1) does not apply to the deposit of a deleterious substance of a type, in a quantity and under terms and conditions stated

- (a) in an approval or certificate issued by the Provincial Board of Health pursuant to *The Public Health Act* or regulations thereunder, or
- (b) in an approval issued by the Director of Pollution Control pursuant to this Act or regulations thereunder, or
- (c) in a licence issued by the Director of Standards and Approvals pursuant to this Act or regulations thereunder, or
- (d) in an approval permit or licence issued by the Energy Resources Conservation Board, or
- (e) in a permit issued pursuant to *The Agricultural Chemicals Act*.

(3) Where an offence is committed under this section on more than one day or is 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.

(4) Where a person is convicted of an offence under this section, the court may, in addition to any punishment it may impose, order that person to refrain from committing any further such offence 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 the commission of any further such offence.

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

(6) No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this section and where, by reason of the occurrence or existence in, upon or adjacent to any watercourse or any water in a watercourse of any condition resulting from an

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act or omission by a person that is an offence under this section, the Minister directs any work to be done by or on behalf of the Crown to repair or remedy the condition or reduce or mitigate any damage to or destruction of life or property that has resulted or may reasonably be expected to result from its occurrence or existence, the cost and expenses of and incidental to the doing of the work, to the extent that such costs and expenses can be established to have been reasonably incurred in the circumstances, are recoverable by action by the Crown from that person.

(7) For the purposes of this section, “deleterious substance” means

- (a) any substance that, if added to any water, would degrade or alter or form part of the process of degradation or alteration of the quality of that water so that it is rendered deleterious to fish, wildlife, livestock or domestic animals,
- (b) any surface water that contains a substance in such 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 so that it is rendered deleterious to fish, wildlife, livestock or domestic animals,

and without limiting the generality of the foregoing includes

- (c) any substance or substance that is part of a class of substances prescribed pursuant to subsection (8), clause (a),
- (d) any surface 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 subsection (8), clause (b), and
- (e) any water that has been subjected to a treatment, process or change prescribed pursuant to subsection (8), clause (c).

(8) The Minister may make regulations prescribing

- (a) substances and classes of substances,
- (b) quantities or concentrations of substances and classes of substances in water, and
- (c) treatments, processes and changes of water temperature,

for the purposes of subsection (7), clauses (c), (d) and (e).

(9) No person shall commence an action under this section without the approval of the Attorney General.

8. *Section 10 is amended*

(a) *by striking out clause 1 and by substituting the following clauses:*

1. governing applications for and the issue of
 - (i) permits and amendments thereto, and
 - (ii) licences and amendments thereto,and prescribing the form for any application and the form of the permit and licence;
- 1.1 prescribing terms and conditions attached to all permits and all licences or any class of either;
- 1.2 prescribing different types of permits and licences and the length of time for which they are issued;

(b) *by striking out clauses 2 and 3 and by substituting the following clauses:*

2. exempting any water facility or class of water facilities from the operation of sections 4, 4.1 and 4.2,
3. specifying a water facility or the type or class of water facilities that are subject to sections 4, 4.1 and 4.2;

(c) *by striking out clause 11 and by substituting the following clause:*

11. to establish and classify the use of water in Alberta and the use and classification of all or any watercourses;

(d) *as to clause 15*

- (i) *by striking out the word "Director" and by substituting the words "Director of Pollution Control",*
- (ii) *by striking out the word "licence" and by substituting the word "certificate",*

(e) *as to clause 16*

- (i) *by striking out the word "Director" and by substituting the words "Director of Pollution Control",*
- (ii) *by striking out the word "licences" wherever it occurs and by substituting in each case the word "certificates",*

(f) *by striking out clause 17 and by substituting the following clause:*

17. empowering the Director of Standards and Approvals or the Director of Pollution Control, or any other specified person, to require any returns or reports by any person pertaining to the construction or operation of a water facility;

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- (g) as to clause 18
 - (i) by striking out the words “waterworks system, waste water treatment facility or sewerage project” and by substituting the words “water facility”,
 - (ii) by striking out the word “Director” and by substituting the words “Director of Standards and Approvals”,
- (h) as to clause 19
 - (i) by striking out the word “Minister” and by substituting the words “Provincial Treasurer”,
 - (ii) in subclause (i) by striking out the word “approvals” and by substituting the word “certificates”,
- (i) as to clause 21 by striking out the words “municipal waterworks system” and by substituting the words “water facility”,
- (j) by adding after clause 26 the following clauses:
 27. prescribing the method in which a swimming pool is to be designed, constructed and operated including
 - (i) the number of lifeguards to be present and their qualifications, and
 - (ii) the sanitary conditions of the swimming pool;
 28. authorizing the preparation, publication and sale of such criteria and guidelines with respect to the construction or operation of any water facility as the Minister thinks fit;
 29. setting the dates required for section 11.2;
 30. governing intensive livestock operations including
 - (i) defining “intensive livestock operations” for the purposes of this clause and the regulations made pursuant to this clause,
 - (ii) the control of intensive livestock operations, and
 - (iii) the method of dealing with water contaminants produced as a result of intensive livestock operations;
 31. concerning the submission of reports, establishing forms and the times at which reports must be submitted to the Director of Pollution Control.

9. *The following sections are added after section 11:*

11.1 (1) No by-law shall be passed by the council of a municipality for raising money to pay for

- (a) a waterworks system, or
- (b) a waste water treatment facility, or
- (c) a sewer or sewerage project

unless the Director of Standards and Approvals has issued a permit therefor.

(2) In this section “municipality” means a city, town, new town, village, county or municipal district.

11.2 (1) A person operating a water facility, without a certificate or approval issued by the Provincial Board of Health pursuant to *The Public Health Act* or regulations thereunder or this Act or the regulations, must apply to the Director of Standards and Approvals for a licence before the date specified in the regulations.

(2) A person operating a water facility, with a certificate or approval issued by the Provincial Board of Health pursuant to *The Public Health Act* or regulations thereunder, or this Act or the regulations before the coming into force of this Act, upon which an expiry date is endorsed, must apply to the Director of Standards and Approvals for a licence before the date endorsed on the certificate or approval.

(3) A person operating a water facility with a certificate or approval issued by the Provincial Board of Health pursuant to *The Public Health Act* or regulations thereunder or this Act or the regulations upon which no expiry date is endorsed, shall apply to the Director of Standards and Approvals for a licence before the date specified in the regulations.

(4) A person operating a water facility with an approval, permit or licence issued by the Energy Resources Conservation Board pursuant to *The Oil and Gas Conservation Act* or *The Hydro and Electric Energy Act*, shall apply to the Director of Standards and Approvals for a licence before the time specified in the regulations.

(5) Any person who operates a water facility without a licence after the date specified in the regulations for an application for a licence for that water facility, is guilty of an offence.

10. *The Public Health Act is amended as to section 7, subsection (1) by adding the following clause after clause 19:*

- 20. concerning the cutting, storage and sale of ice;

9. Section 11.1 imposes a restriction on the council of a municipality.

Section 11.2 is a transitional provision.

10. Amends chapter 294 of the Revised Statutes of Alberta 1970.

11. The Municipal Government Act is amended

- (a) as to section 193 by striking out the words “The Public Health Act” and by substituting the words “The Clean Water Act”,*
- (b) as to section 324, subsection (1) by striking out clause (f) and by substituting the following:*
 - (f) that the required consent or approval of the Minister has been obtained (if any) and the permit under The Clean Water Act has been issued, if required.*

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

11. Amends chapter 246 of the Revised Statutes of Alberta 1970.