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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 51

WATER ACT

THE MINISTER OF ENVIRONMENTAL PROTECTION

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 51

1995

WATER ACT

(Assented to , 1995)

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

Interpretation

1(1) In this Act,

(a) “activity” means

- (i) the placing of, constructing, operating, maintaining, removing or disturbing of works, ground, vegetation or other material, or the carrying out of any undertaking, including but not limited to groundwater exploration, in or on any land, water or water body, that
 - (A) alters, may alter or may become capable of altering the flow or level of water, whether temporarily or permanently, including but not limited to water in a water body, by any means, including drainage,
 - (B) changes, may change or may become capable of changing the location of water or the direction of flow of water, including water in a water body, by drainage or otherwise,
 - (C) causes, may cause or may become capable of causing the siltation of water or the erosion of any bed, bank or shore of a water body, or

- (D) causes, may cause or may become capable of causing an effect on the aquatic environment;
 - (ii) the alteration of the flow, direction of flow or level of water or the changing of the location of water for the purposes of drainage, flood control, erosion control, channel realignment or a similar purpose;
 - (iii) the drilling or reclamation of a water well or borehole;
 - (iv) anything defined as an activity in the regulations for the purposes of this Act;
- (b) “adverse effect” means impairment of or damage to;
- (c) “allocation” means the volume, rate and timing of a diversion;
- (d) “amend” includes to add to or to delete from;
- (e) “approval” means an approval issued or deemed to be issued under this Act;
- (f) “approved water management plan” means a water management plan that is approved under Part 2;
- (g) “aquatic environment” means the components of the earth related to, living in or located in or on water or the beds or shores of a water body, including but not limited to
 - (i) all organic and inorganic matter, and
 - (ii) living organisms and their habitat, including fish habitat,
 and their interacting natural systems;
- (h) “conservation” includes but is not limited to
 - (i) improved efficiency, recycling, reuse or reduction of wastage or losses,
 - (ii) preservation, and
 - (iii) protection;
- (i) “Department” means the department of the Government over which the Minister presides;

- (j) “Director” means an individual designated as a Director for the purposes of this Act by the Minister under Part 11;
- (k) “diversion” means
 - (i) the impoundment, storage, consumption, taking or removal of water for any purpose, except the taking or removal for the sole purpose of drainage, flood control, erosion control or channel realignment;
 - (ii) any other thing defined as a diversion in the regulations for the purposes of this Act;
- (l) “document” includes but is not limited to a book, sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and any other information that is recorded or stored by any means;
- (m) “drill” means to drill, bore or otherwise make, construct, extend, alter or recondition;
- (n) “environment” means environment as defined in the *Environmental Protection and Enhancement Act*;
- (o) “Environmental Appeal Board” means the Environmental Appeal Board established under the *Environmental Protection and Enhancement Act*;
- (p) “farm unit” means farm unit as defined in the regulations for the purposes of this Act;
- (q) “give notice” means to give or serve written notice in accordance with section 167;
- (r) “groundwater” means all water under the surface of the ground;
- (s) “household” means a household as defined in the regulations for the purposes of this Act;
- (t) “household purposes” means the use of a maximum of 1250 cubic metres of water per year per household for the purposes of human consumption, sanitation, fire prevention and watering animals, gardens, lawns and trees;
- (u) “household user” means a person who diverts water for household purposes, as described in section 21;
- (v) “inspector” means an individual who has been designated as an inspector under Part 11;

- (w) “investigator” means an individual who has been designated as an investigator under Part 11;
- (x) “irrigation district” means an irrigation district as defined in the *Irrigation Act*;
- (y) “land” means land as defined in the *Land Titles Act*;
- (z) “licence” means a licence issued or deemed to be issued under this Act;
- (aa) “local authority” means
 - (i) the corporation of a city, town, village, summer village, municipal district or specialized municipality,
 - (ii) in the case of an improvement district or special area, the Minister of Municipal Affairs or the advisory council,
 - (iii) a settlement under the *Metis Settlements Act*,
 - (iv) a regional services commission established under the *Municipal Government Act*,
 - (v) the board of directors of an irrigation district within the meaning of the *Irrigation Act*,
 - (vi) the board of trustees of a drainage district within the meaning of the *Drainage Districts Act*,
 - (vii) the local board of a health unit under the *Public Health Act*, and
 - (viii) any other entity defined as a local authority in the regulations for the purposes of this Act;
- (bb) “major river basin” means
 - (i) the Peace/Slave River Basin,
 - (ii) the Athabasca River Basin,
 - (iii) the North Saskatchewan River Basin,
 - (iv) the South Saskatchewan River Basin,
 - (v) the Milk River Basin,
 - (vi) the Beaver River Basin, and

- (vii) the Hay River Basin,
with boundaries as specified in the regulations;
- (cc) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (dd) “operation of a works” means the operation of a works for the diversion of water;
- (ee) “parcel of land” means the aggregate of one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office and includes an area of unpatented land, considered appropriate by the Director;
- (ff) “peace officer” means a peace officer as defined in the *Police Act*;
- (gg) “person responsible” means a person responsible within the meaning of the regulations;
- (hh) “pesticide” means pesticide as defined in the *Environmental Protection and Enhancement Act*;
- (ii) “place” includes but is not limited to any land, water, water body, building, structure, machine, aircraft, vehicle or vessel, whether above or below the ground;
- (jj) “preliminary certificate” means a preliminary certificate issued under Part 4;
- (kk) “priority number” means a number that has been assigned to a licence, an application for a licence, preliminary certificate or a registration, pursuant to this Act;
- (ll) “proponent” means a person, the Government, a Government agency, a government of another jurisdiction or an agency of another government that undertakes
 - (i) a proposed activity,
 - (ii) a proposed diversion of water, or
 - (iii) a proposed operation of works for the diversion of water;
- (mm) “proposed activity” means
 - (i) a planned activity that has not been commenced.

- (ii) an activity that is being carried on and for which an approval is required but has not been obtained, or
 - (iii) a change to an activity for which an amendment of an approval under section 43 is required and that, in the opinion of the Director, is of a substantial nature;
- (nn) “proposed diversion” means
- (i) a planned diversion of water that has not been commenced,
 - (ii) a diversion of water that is being carried on and for which a licence, other than a renewal, is required but has not been obtained, or
 - (iii) a change to a diversion of water where the change is one to which section 57 applies and in the opinion of the Director is of a substantial nature;
- (oo) “proposed operation of works for the diversion of water” means
- (i) a planned operation of a works for the diversion of water that has not been commenced,
 - (ii) an operation of a works for the diversion of water that is being carried on and for which a licence, other than a renewal, is required but has not been obtained, or
 - (iii) a change to an operation of a works for the diversion of water if the change is one to which section 57 applies and in the opinion of the Director is of a substantial nature;
- (pp) “recondition” means to flush, clean, recase, reline, rescreen or redevelop an existing water well by a drilling machine to improve the water production or quality of water produced by the water well;
- (qq) “registrant” means a person who holds a registration;
- (rr) “registration” means a registration effected under this Act;
- (ss) “senior licence” means a senior licence as described in section 30;
- (tt) “statement of concern” means a statement of concern made under Part 8;

- (uu) “traditional agriculture user” means a person who is entitled to divert water pursuant to section 24;
- (vv) “undertaking” means a project that is established, proposed to be established, required to be established or carried on pursuant to this Act by any person and that is related to
 - (i) an activity, diversion or operation of a works, and
 - (ii) any thing that is defined as an undertaking in the regulations for the purposes of this Act;
- (ww) “vehicle” means a device in, on or by which a person or thing may be transported or drawn;
- (xx) “water” means all water on or under the surface of the ground, whether in liquid or solid state;
- (yy) “water body” means any location where water flows or is present, whether or not the flow or the presence of water is continuous, intermittent or occurs only during a flood, and includes but is not limited to wetlands;
- (zz) “water conservation guideline” means a water conservation guideline established by the Director under Part 2;
- (aaa) “water conservation objective” means the amount and quality of water determined by the Director based on information available to the Director, to be necessary for the
 - (i) protection of a water body or its aquatic environment, or any part of them,
 - (ii) protection of tourism, recreational, transportation and waste assimilation uses of water, or
 - (iii) management of fish or wildlife
 and may include water necessary for the rate of flow of water or water level requirements;
- (bbb) “water management plan” means a plan with respect to conservation and management of water;
- (ccc) “water well” means an opening in the ground, whether drilled or altered from its natural state, that is used for
 - (i) the production of groundwater for any purpose,
 - (ii) obtaining data about groundwater, or

(iii) recharging an underground formation from which groundwater can be recovered,

and includes any related equipment, buildings, structures and appurtenances, but does not include a dugout;

(ddd) “water power development” means the works required for the storage or diversion of water for the production of power and includes but is not limited to

(i) dams, diversion works, power-houses, conduits or canals conducting water, mechanical, hydraulic or electrical equipment and appurtenances, the land and rights of way required in connection with them, and

(ii) the clearings, roads and trails that are required to be constructed or are still used or useful in connection with the physical structures;

(eee) “works” mean any man-made plant, structure, device or contrivance, or part of it, including a man-made dam and

(i) land associated with it, and

(ii) mitigative measures associated with it,

and includes any thing that is defined as a works in the regulations for the purposes of this Act.

(2) In this Act, a reference to “this Act” includes the regulations made under this Act.

Purpose of Act **2** The purpose of this Act is to support and promote the conservation and management of water, including the wise allocation and use of water, while recognizing

(a) the need to manage and conserve water resources to sustain our environment and to ensure a healthy environment, economy and high quality of life in the present and the future;

(b) the need for an integrated approach and comprehensive, flexible administration and management systems based on sound planning, regulatory actions and market forces;

(c) the shared responsibility of all residents of Alberta for the conservation and wise use of water and their role in providing advice with respect to water management planning and decision-making;

- (d) the importance of working co-operatively with the governments of other jurisdictions with respect to trans-boundary water management;
- (e) the important role of comprehensive and responsive action in administering this Act.

Water vested
in Crown

3 The property in and the right to the diversion, drainage and use of all water in the Province is vested in Her Majesty in right of Alberta except as provided for in the regulations.

Crown is
bound

4 The Crown is bound by this Act.

PART 1

CONSULTATION

Referral if
EPEA
applicable

5(1) If a Director is of the opinion that an activity, diversion or operation of a works requires an approval under the *Environmental Protection and Enhancement Act*, the Director

- (a) shall refer the activity, diversion or operation of a works for review, and
- (b) may make any recommendations the Director considers appropriate,

to a Director under the *Environmental Protection and Enhancement Act*.

(2) A referral may be made under subsection (1) whether or not

- (a) an approval is or may be issued,
- (b) a licence or preliminary certificate is or may be issued with respect to the diversion or the operation of a works, or
- (c) a term or condition of a licence or a preliminary certificate applies to the diversion or the operation of a works.

Agreements

6 Subject to the *Government Organization Act*, the Minister may enter into agreements containing any terms and conditions, including but not limited to provisions for sharing of costs, with

- (a) a person,

- (b) a Government agency, or
- (c) the government or a government agency of another jurisdiction,

with respect to

- (d) any matter pertaining to the conservation and management of water, including but not limited to the supply and control of water,
- (e) water power development,
- (f) the use, operation, maintenance, repair, control, replacement or removal of works,
- (g) flood control and management,
- (h) trans-boundary water bodies, and
- (i) any other matter related to the administration of this Act.

Agreements
restricting land
uses

7(1) In order to promote the conservation and management of water, the Minister may, on the request of the land owner registered under the *Land Titles Act* or the *Metis Settlements Act*, enter into an agreement with the registered land owner to restrict the purposes for which the registered owner's land may be used by the registered owner and the successors in title of the registered owner.

(2) An agreement under this section may provide for payment of compensation by the Government or by the registered owner of the land.

(3) An agreement under this section may be registered under the *Land Titles Act* or the *Metis Settlements Act*.

(4) An agreement that is registered as provided for in subsection (3) runs with the land and the Minister may enforce it whether it is positive or negative in nature, and whether or not the Government has an interest in any land that would be accommodated or benefitted by the agreement.

(5) On the expiration or termination of an agreement that is registered under subsection (3), the Registrar of Land Titles or the Registrar of the Metis Settlements Land Registry shall, on being directed to do so by the Minister, cancel the registration of the agreement.

(6) This section applies notwithstanding section 52 of the *Land Titles Act*.

PART 2
PLANNING AND ENVIRONMENTAL ASSESSMENT

Division 1
Planning

Provincial
planning
framework

8(1) The Minister shall develop a framework for water management planning for the Province within 3 years after the coming into force of this Act.

(2) The framework for water management planning may include

- (a) water management principles,
- (b) the geographical limits or boundaries within which water management planning is to be carried out in the Province, including limits or boundaries for the development of strategic and operational plans,
- (c) criteria for establishing the order in which water management plans are to be developed,
- (d) an outline of the processes for developing, implementing, reviewing and revising water management plans, including opportunities for local and regional involvement,
- (e) provisions on matters relating to integration of water management planning with land and other resources,
- (f) provisions on matters relating to the development of water conservation objectives, and
- (g) a strategy for the protection of the aquatic environment.

(3) The Minister shall, in a form and manner that the Minister considers appropriate, consult with the public during the development of the framework for water management planning.

Strategy

9(1) The Minister shall develop a strategy for the protection of the aquatic environment as part of the framework for water management planning for the Province.

(2) The strategy referred to in subsection (1) may include

- (a) identification of criteria to determine the order in which water bodies or classes of water bodies are to be dealt with.

- (b) development of guidelines for establishing water conservation objectives,
- (c) matters relating to the protection of biological diversity, and
- (d) guidelines and mechanisms for implementing the strategy.

(3) The Minister shall, in a form and manner that the Minister considers appropriate, consult with the public during the development of the strategy.

(4) In this section, “biological diversity” means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part, and includes diversity within and between species and ecosystems.

Water
management
plan

10(1) The Minister may cause a water management plan to be developed.

(2) The person developing a water management plan

- (a) may adopt an integrated approach to planning with respect to water, land and other resources;
- (b) may co-operate with
 - (i) any persons,
 - (ii) local authorities,
 - (iii) the governments and government agencies of other jurisdictions, and
 - (iv) Government agencies and other Government departments;
- (c) may, with the consent of the Minister, carry out any studies that the person considers appropriate;
- (d) may consider any information, documents or other water and land management plans;
- (e) shall follow the framework for water management planning under this Division;

- (f) shall engage in public consultation that the person considers appropriate during the development of the water management plan.

Water
management
planning areas

11 The Minister may establish water management planning areas for the purposes of developing or implementing a water management plan or approved water management plan.

Approved
water
management
plans

12(1) The Minister may approve a water management plan or part of a water management plan subject to any terms and conditions the Minister considers appropriate.

(2) A water management plan that has been approved under subsection (1) is an approved water management plan.

(3) An approved water management plan consists of

- (a) a summary of the issues considered in a water management plan,
- (b) a description of the area of the Province to which all or part of the water management plan applies, and
- (c) a summary of the recommendations of the Minister, including but not limited to the matters or factors that must be considered in issuing an approval, preliminary certificate or licence or in effecting a registration in the area of the Province to which the plan applies, or in considering a transfer of an allocation of water under a licence.

(4) The *Regulations Act* does not apply to an approval under subsection (1) or an amendment or cancellation under section 13.

Amend, cancel
approved plan

13(1) The Minister may amend a term or condition of an approved water management plan or cancel the approval of an approved water management plan.

(2) If the approval of an approved water management plan has been cancelled, that water management plan does not need to be considered by the Director when making a decision under this Act.

(3) Notwithstanding subsection (1), the Director may amend an approved water management plan in order to

- (a) correct a clerical error, or

- (b) make minor amendments that, in the opinion of the Director, do not affect the substance of the approved water management plan.

Notice of approved plan

14 The Director shall provide notice, in accordance with the regulations, of

- (a) the approval of a water management plan,
- (b) the amendment of an approved water management plan, and
- (c) the cancellation of an approval of an approved water management plan.

Water conservation guidelines

15(1) The Minister may establish water conservation guidelines.

(2) The *Regulations Act* does not apply to water conservation guidelines.

Water conservation objectives

16(1) The Director may establish water conservation objectives in accordance with the guidelines referred to in section 15.

(2) The Director shall engage in any public consultation that the Director considers appropriate during the determination of a water conservation objective.

(3) Information on a water conservation objective developed by the Director shall be made available to the public in a form and manner satisfactory to the Director.

Water management areas

17 The Director may establish water management areas for the purposes of

- (a) administering priority of rights to divert water,
- (b) establishing groundwater management areas,
- (c) temporarily assigning water under section 34,
- (d) directing that the diversion of water for household purposes cease,
- (e) directing that applications for licences cease to be accepted, and
- (f) any other matter specified in the regulations.

Division 2 Environmental Assessment Process

Environmental
assessment
requirements

18(1) Part 2, Division 1 of the *Environmental Protection and Enhancement Act* applies to the environmental assessment of a proposed activity, proposed diversion, proposed operation of a works for the diversion of water or proposed transfer of an allocation of water under this Act.

(2) Unless the regulations provide otherwise, the Director may not issue an approval, preliminary certificate or licence or approve a transfer of an allocation of water under a licence if the Director is of the opinion that this Division and Part 2, Division 1 of the *Environmental Protection and Enhancement Act*, if applicable, have not been complied with.

(3) Notwithstanding subsection (2), the Director may issue an approval, a licence or a preliminary certificate to enable a proponent to comply with this Division and with Part 2, Division 1 of the *Environmental Protection and Enhancement Act*.

Ministerial
orders

19 If the designated Director under the *Environmental Protection and Enhancement Act* submits an environmental impact assessment report to the Minister, the Minister may advise a proponent, if an application has not already been made, that the proponent may apply for an approval, licence or transfer of an allocation, or that an application may proceed, under this Act unless the Minister has ordered

- (a) that no approval, preliminary certificate or licence may be issued under this Act with respect to the proposed activity, proposed diversion of water or proposed operation of works for the diversion of water, or
- (b) that no transfer of an allocation of water under the proponent's licence may be approved.

PART 3

RIGHT TO DIVERT AND PRIORITY OF RIGHTS

Division 1 Right to Water

Diversion,
activity rights
continued

20(1) Every authority or licence, other than a temporary authority, permit or interim licence, granted under a predecessor Act that, on the date this Act comes into force, authorizes the diversion of water is deemed to be a licence issued under this Act with a priority number that corresponds to the priority number of the original authority or licence.

(2) A person who holds a deemed licence under subsection (1) may continue to exercise the right to divert water in accordance with that licence's priority number and shall fulfil any requirements of that licence in accordance with this Act and the terms and conditions of the original authority or licence.

(3) Every temporary authority granted under a predecessor Act that, on the date this Act comes into force, authorizes the diversion of water may, by order of the Minister, be deemed to be a licence or an approval issued under this Act subject to the terms and conditions of the original temporary authority and to this Act.

(4) Every permit granted under a predecessor Act that, on the date this Act comes into force, authorizes an activity

(a) in the case of a permit that is valid for a specified period of time, continues as a permit, and the *Water Resources Act* continues to apply to that permit as if that Act were still in force, and

(b) in the case of a permit that does not have an expiry date, is deemed to be an approval under this Act that expires 10 years after the date this Act comes into force.

(5) An approval deemed to be issued under subsection (4)(b) is subject to the terms and conditions of the original permit and to this Act.

(6) An interim licence granted under a predecessor Act that, on the date this Act comes into force, authorizes the diversion of water may, by order of the Minister, be deemed to be a licence or an approval issued under this Act.

(7) A licence or approval deemed to be issued under subsection (6) is subject to the terms and conditions of the original interim licence and to this Act.

(8) In this section, “predecessor Act” means the *Water Resources Act*, *The Irrigation Act* (Canada), R.S.C. 1927 c. 104, *The Dominion Lands Act* (Canada), S.C. 1908 c. 20 or *The Dominion Water Power Act* (Canada), R.S.C. 1927 c. 210.

Household
purposes

21(1) Subject to subsection (4) and to section 23 and the regulations under this Part, a person who owns or occupies land that adjoins a river, stream, lake, natural watercourse or other natural water body

- (a) has the right to commence and continue the diversion of the water that adjoins that land for household purposes, including water that has been reserved under this Act, and
- (b) may not obtain a licence for the diversion of water that adjoins that land for household purposes.

(2) Subject to subsection (4) and to section 23 and the regulations under this Part, a person who owns or occupies land under which groundwater exists

- (a) has the right to commence and continue the diversion of the groundwater that the person is able to capture for household purposes, and
- (b) may not obtain a licence for the diversion of the groundwater for household purposes.

(3) A person who diverts water under subsection (1) or (2) may pump or otherwise convey water to the point of use for household purposes.

(4) The number of households with the right to divert water under this section with respect to a parcel of land is limited to the number permitted under the applicable approved water management plan.

Riparian
owner or
occupant

22(1) Notwithstanding the common law with respect to the continued flow or diversion of water, a riparian owner or occupant of land, at common law, has the right to divert water only in accordance with section 21 and may not divert water for any other purpose without a licence, registration or approval or pursuant to an exemption for the requirement for a licence, registration or approval.

(2) A person described in subsection (1) may commence an action with respect to a diversion of water only in respect of

(a) an unauthorized, unlicensed or unregistered diversion of water, or

(b) a licensed or registered diversion of water if the action relates to a question of law or jurisdiction.

(3) Nothing in this section shall be construed so as to repeal, remove or reduce any rights held by a riparian owner or occupant of land at common law, other than the right to the continued flow or diversion of water.

Diversion must
cease

23(1) If the Director is of the opinion that there may be a significant adverse effect on the aquatic environment, a licensee or a traditional agriculture user resulting from a diversion of water pursuant to section 21, the Director may, subject to the regulations under this Part,

(a) issue a water management order, or

(b) declare that new diversions of water pursuant to section 21 must cease with respect to land specified in the declaration.

(2) The Director shall provide notice of a declaration in a manner and form satisfactory to the Director.

(3) If the Director has made a declaration under subsection (1), while the declaration is in force

(a) a person described in section 21 who did not divert water as described in section 21 prior to the date of the declaration, may not divert water as described in section 21 to the land or water management area specified in the declaration;

(b) water for household purposes may be diverted to land described in the declaration pursuant to a licence or registration and a person described in section 21 to whom clause (a) does not apply.

(4) If, after this Act comes into force, a subdivision of land is approved under the *Municipal Government Act*, a person residing within that subdivision on a parcel of land that adjoins a source of water described in section 21 has the right to commence and continue the diversion of water under section 21 only if

(a) a report certified by a professional engineer, professional geologist or professional geophysicist, as defined in the

Engineering, Geological and Geophysical Professions Act, was submitted to the subdivision authority as part of the application for the subdivision under the *Municipal Government Act*, and the report, in the opinion of the Director, clearly states that the diversion of water for household purposes under section 21 of this Act by all of the persons within the subdivision who are entitled to divert water under section 21 will not interfere with any householder users, traditional agriculture users or licensees who exist when the subdivision is approved, and

- (b) the diversion does not contravene the applicable approved water management plan.

Traditional
agriculture
user

24 A person who owns or occupies land

- (a) to which a registration is appurtenant, and
- (b) that adjoins a river, stream, lake, natural water course or other natural water body, or under which groundwater exists,

who raises animals for commercial or non-commercial purposes or applies pesticides to crops, as part of a farm unit, has the right to commence and continue the diversion of water in accordance with the registration.

Traditional
agriculture
user

25(1) A person who is entitled to divert water under section 24 and under section 21 is entitled to divert the water under section 21 as an additional amount of water.

(2) A person who diverts water in accordance with section 24 may pump or otherwise convey water to the point of use for the purposes described in section 24 on the land that adjoins the source of water or to an adjacent parcel of land owned by that person if both lands form part of the same farm unit.

(3) A person referred to in section 24 has priority to divert water in accordance with the registration.

Diversion by
licence or
approval

26 A person has the right to commence and continue the diversion of water in accordance with the terms and conditions of

- (a) a licence in good standing that is issued or deemed to be issued to that person, or
- (b) an approval in good standing that is issued or deemed to be issued to that person,

in accordance with the priority to divert water under Division 2.

Division 2 Priority of Rights

Diversion
priority of
householder

27 A person who diverts water pursuant to section 21 has priority over any licensee, traditional agriculture user, approval holder or person exempt by regulation from the requirement to hold a licence or approval.

Registration
priority
numbers

28(1) If in the opinion of the Director an applicant for registration has complied with section 77, the Director must assign a priority number to the registration that corresponds to the later of July 1, 1894 and the first known date of diversion of water, for the purposes of raising animals, or applying pesticides to crops from the sources on the land specified in the registration.

(2) The onus is on the applicant for registration to provide information on the first known date of diversion.

Licence
priority
numbers

29(1) Subject to section 53, on receiving an application for a licence that, in the opinion of the Director, is complete and complies with the regulations, the Director must assign a priority number in consecutive order that corresponds to the date and time that the Director received the complete application.

(2) A priority number assigned to an application for a licence under subsection (1) must be assigned to a licence that is issued pursuant to that application.

(3) The Director may correct an error with respect to a priority number assigned to a complete application for a licence or a licence.

Priorities

30(1) A licence, preliminary certificate or registration with a priority number that corresponds to an earlier date and time is senior to a licence, preliminary certificate or registration with a priority number that corresponds to a more recent date and time.

(2) A licensee or traditional agriculture user with a licence or registration that is senior, as determined under subsection (1), is entitled to divert water from a water body under the licence or registration before a licensee or traditional agriculture user with a priority number that corresponds to a more recent date and time is entitled to divert water from that water body.

Registry **31** Records contained in the registry established by the Minister for water rights are conclusive evidence of the extent and priority number assigned to a licence and registration.

Works limit the licence **32(1)** When a licensee's works is not of sufficient capacity to carry the diversion of water to which the licensee is entitled under the terms and conditions of the licence, the licensee's right to divert water under the licence is limited to the capacity of the works.

(2) In the case of a dispute as to the capacity of a licensee's works, the Director may order an inspection to be made of the works.

(3) The report and finding of an inspector as to the capacity of the works is, for the purpose of this section, final and conclusive.

Division 3 Administering Priority of Rights

Determining priorities **33(1)** In the event of a dispute with respect to priority of water rights, the Director may determine the priority of water rights within a water management area or any other geographical area considered appropriate by the Director.

(2) Subsection (1) does not apply to a dispute with respect to priority of water rights among household users.

(3) An inspector or the Director may issue a water management order with respect to the priority of water rights if the inspector or the Director is of the opinion that

(a) licensees or persons diverting pursuant to registrations are not diverting water in accordance with their priority numbers or rights to divert, and

(b) the issuance of the order will provide a remedy with respect to priority of water rights.

(4) If a person has been issued a water management order with respect to priority of water rights, that person shall not divert water except in accordance with the terms and conditions specified in the water management order until the order is amended or a further order is made by the Director.

(5) If the Director has received a complaint with respect to priority of water rights and an inspector or investigator is of the opinion that a diversion of water is affecting the rights of a household user,

licensee or traditional agriculture user, the inspector or investigator may interrupt the diversion of water and cause the works of the person responsible for the diversion of water to be closed, or take any other action that is necessary to ensure that firstly the supply of water to which a household user is entitled can be diverted by the householder user, and secondly if there is any surplus water, that the water is diverted by the licensees and traditional agriculture users in accordance with their priority numbers.

(6) A dispute as to the priority number of a registration is to be resolved within 5 years after the registration is effected.

Agreements to
share water

34(1) A traditional agriculture user or licensee may temporarily assign all or part of the water, for a term set out in an agreement, that the traditional agriculture user or licensee is entitled to divert to another traditional agriculture user or licensee with rights to divert water from the same water body, if

- (a) a written agreement is made and signed by all the traditional agriculture users and licensees participating in the temporary assignment of the water,
- (b) the licences and registrations that are the subject of the agreement are in good standing,
- (c) the rights of any household user or licensee or traditional agriculture user with a priority number that corresponds to an earlier date and time are not adversely affected by the temporary assignment,
- (d) there are no adverse effects on the water body, or the aquatic environment, and
- (e) a copy of the written agreement is submitted to the Director on the request of the Director.

(2) If an agreement is made under subsection (1),

- (a) the traditional agriculture user or licensee temporarily assigning the water is not entitled to divert the allocation of water that has been temporarily assigned,
- (b) the traditional agriculture user or licensee receiving the diversion of water must do so in accordance with the licence or registration,
- (c) the traditional agriculture user or licensee temporarily assigning the water shall not divert more water than the water allocation specified in the registration or licence, and

(d) no priority of rights attaches to the temporarily assigned water.

(3) An agreement made under this section must comply with the regulations.

(4) If the Director is of the opinion that the temporary assignment causes or may cause

(a) the rights of any household user or a licensee or traditional agriculture user with a priority number that corresponds to an earlier date and time to be adversely affected, or

(b) an adverse effect on the water body or the aquatic environment,

the Director may direct the suspension of the operation of the agreement for any period of time the Director considers appropriate or declare the written agreement void.

(5) The Director may declare an agreement void on the request

(a) of the registrant if the agreement was entered into by a traditional agriculture user who is not the registrant, and

(b) of the owner of the land to which the licence is appurtenant if the licensee who entered into the agreement is not the owner of the land.

(6) If the Director has

(a) directed the suspension of an agreement, no water may be assigned during the period the agreement is suspended, or

(b) declared an agreement void, no water may be assigned under the agreement.

Regulations

35(1) The Minister may make regulations

(a) exempting water users or classes of water users from the right to divert water under section 21;

(b) respecting water management orders and declarations under section 23;

(c) respecting the establishment and administration of the registry for water rights;

(d) respecting agreements for the temporary assignment of water.

PART 4

APPROVALS, LICENCES, PRELIMINARY CERTIFICATES, REGISTRATIONS

Division 1 Approvals

Activity needs
approval

36(1) Subject to subsection (2), no person shall commence or continue an activity unless the person holds an approval that authorizes the activity and an approval is held by the person who is to own the land or undertaking to which the approval is to be appurtenant.

(2) A person who commences or continues an activity

- (a) that has been designated in the regulations as being exempt from the requirement for an approval, or
- (b) that is a specific activity in an area of the Province that has been designated by the regulations as an area that is exempt from the requirement for an approval for that specific activity,

is not required to obtain an approval under this Act.

Application

37(1) An application for an approval must

- (a) be made to the Director in a form and manner satisfactory to the Director,
- (b) contain or be accompanied by any information required by the Director, and
- (c) be accompanied by the required fees.

(2) The Director may require an applicant to submit any additional information the Director considers necessary within any time period required by the Director.

(3) The Director may deem an application for an approval to be an application for a licence.

(4) If an applicant for an approval does not own the land in fee simple or the undertaking to which the approval is to be appurtenant, the applicant must submit the written consent of the owner of the land in fee simple or of the undertaking, as part of the application for the approval.

Issuance of
approvals

38(1) The Director may issue or refuse to issue an approval to an applicant to commence or continue an activity for the period of time stated in the approval.

(2) The Director may issue an approval subject to any terms and conditions the Director considers appropriate.

(3) The Director may issue an approval that authorizes the temporary diversion of water associated with carrying out an activity.

(4) An approval authorizing the temporary diversion of water associated with carrying out an activity does not provide any priority of rights with respect to that water.

(5) In making a decision under this section, the Director

(a) shall consider, with respect to the applicable area of the Province, the recommendations and matters and factors that must be considered in issuing an approval, as set out in any applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects,
and

(iii) effects on licensees and traditional agriculture users,
resulting from the activity, and

(c) may consider

(i) effects on public safety, and

(ii) any other matters applicable to the approval that, in the opinion of the Director, are relevant.

(6) When the Director issues an approval it must be issued for a specified period.

No approval
on Minister's
order

39(1) If the Minister is of the opinion that a proposed activity should not proceed because it is not in the public interest having regard to the purposes of this Act, the Minister may order that no approval be issued in respect of the proposed activity.

(2) If the Minister makes an order under subsection (1), the Director shall give notice of the order to the applicant for the approval, if an application for an approval has been submitted.

Approval
required onsite

40 An approval holder shall keep a copy of the approval at the place where the activity occurs or may occur, as required by the regulations and in the case of a water well shall display tags, decals, plates, devices and documents or other things as required by the regulations.

Certificate of
completion

41(1) On completion of the activity specified in the approval, the approval holder shall submit a certificate of completion that certifies that the approval holder has completed the activity in a form and manner satisfactory to the Director and containing the information required by the Director.

(2) On completion of a part of an activity, if required by the Director, the approval holder shall submit a certificate of completion with respect to the part of the activity, in a form and manner satisfactory to the Director, and containing the information required by the Director.

Extensions

42(1) The Director may, on the Director's own initiative or on the request of an approval holder, extend the expiry date of an approval or a term or condition of an approval as the Director considers appropriate.

(2) An approval that relates to the alteration of the flow, direction of flow or level of water or the changing of the location of water for the purposes of drainage, flood control, erosion control, channel realignment or a similar purpose may contain a term that states that the approval, if in good standing, is renewed once automatically for the same period of time for which it was originally issued.

(3) An extension under this section is deemed not to be an amendment of the approval for the purposes of Parts 8 and 9.

Amendment of
approvals

43(1) The Director may amend an approval

- (a) on application by the approval holder,
- (b) with the consent of the approval holder, or
- (c) on the Director's own initiative without the consent of the approval holder
 - (i) in order to correct a clerical error in the approval,

- (ii) to amend a term or condition that relates to a monitoring, reporting or inspection requirement,
- (iii) if the Director has received notice of a disposition of the land to which an approval is appurtenant under section 46, to reflect the disposition,
- (iv) if the purpose of the amendment is to address matters related to a temporary discontinuance of the activity by the approval holder,
- (v) if the Director extends the expiry date of an approval under section 42,
- (vi) if in the opinion of the Director a significant adverse effect on the aquatic environment that was not reasonably foreseeable at the time the approval was issued occurs or may occur,
- (vii) if in the opinion of the Director, an adverse effect on a licensee, household user or traditional agriculture user occurs, or
- (viii) if there is a term or condition of the approval allowing the amendment.

(2) An application under subsection (1)(a) must be made in a form and manner satisfactory to the Director.

(3) Notwithstanding subsection (1), an approval holder does not require an amendment of the approval in order to make an adjustment, repair or replacement or to have maintenance done during the course of normal operations of a works, as specified in the regulations.

(4) Notwithstanding this section, the addition of and modifications to plans or specifications relating to an approval that in the opinion of the Director do not substantially change the terms and conditions of the approval or the nature of the undertaking to which the approval is appurtenant are deemed not to be an amendment of an approval for the purposes of Parts 8 and 9.

Suspension
and
cancellation

44(1) The Director may suspend or cancel an approval

- (a) on application by the approval holder,
- (b) with the consent of the approval holder, or
- (c) on the Director's own initiative without the consent of the approval holder if

- (i) the approval was issued in error,
- (ii) in the opinion of the Director, the activity has been abandoned,
- (iii) there is an emergency and the Director is of the opinion that the suspension or cancellation is necessary for public safety,
- (iv) there is a default in any payment of any fees or other money owing to the Government under this Act by the approval holder,
- (v) there is non-performance or in the opinion of the Director there is a serious breach of any term or condition of the approval,
- (vi) in the opinion of the Director, the approval holder made a material misrepresentation in obtaining the approval,
- (vii) the approval holder is convicted of an offence under this Act, other than an offence under section 148(1)(h), (j), (n) or (o),
- (viii) the Director is of the opinion that a significant adverse effect on the aquatic environment occurs or may occur that was not reasonably foreseeable at the time the approval was issued, or
- (ix) the Director is of the opinion that there is an adverse effect on a licensee, household user or traditional agriculture user.

(2) If an approval has been cancelled or suspended, all rights of the approval holder cease, and in addition to the Director's exercising any powers provided under Part 7 and Part 10, the Government may recover any fees owing to the Government by the approval holder under this Act.

(3) If an approval with respect to drilling water wells is cancelled or suspended, the approval holder shall, on the request of the Director, return as soon as possible to the Director the tags, decals, plates, devices, documents or other things that serve as evidence that a drilling machine is being operated under an approval.

Security

45 If required by the regulations, an applicant for an approval or an approval holder shall provide financial or other security and carry insurance in respect of all aspects of the activity to which the

approval relates in an amount and of a type required by the Director.

Approvals run
with land

46(1) Every approval issued must specify the land or undertaking to which it is appurtenant.

(2) An approval and all work constructed under the approval

- (a) are appurtenant to the land or undertaking specified in the approval,
- (b) are inseparable from the land or undertaking specified in the approval, and
- (c) run with the land on any disposition of the land, unless the Lieutenant Governor in Council orders otherwise.

Regulations

47 The Minister may make regulations

- (a) respecting the qualifications for drillers;
- (b) providing for the issuing of tags, decals, plates, devices, documents or other things to an approval holder to serve as evidence that a drilling machine is being operated under an approval;
- (c) providing for the display or production of a tag, decal, plate, device, document or other thing referred to in clause (b);
- (d) prohibiting the use of a drilling machine unless a tag, decal, plate, device, document or other thing referred to in clause (b) has been issued in respect of that drilling machine;
- (e) requiring and governing the taking of samples, tests, analyses, surveys and logs and other well data and the submission of them to the Director;
- (f) governing official water well names and their registration;
- (g) governing the reclamation of water wells and the methods to be used and requirements to be observed in reclamation operations;
- (h) defining “problem water well” for the purposes of this Part and the regulations;

- (i) respecting remedial action to be taken in respect of problem water wells;
- (j) respecting the control of flowing water wells;
- (k) respecting the methods of drilling water wells and of determining sources of groundwater;
- (l) respecting the precautions and measures to be taken before a water well is commenced and during the drilling and development of a water well;
- (m) respecting the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning and production of water wells;
- (n) respecting the maintenance of inactive water wells;
- (o) respecting the ongoing maintenance and operation of active water wells and classes of active water wells;
- (p) respecting the drilling and reclamation of boreholes and the persons in charge of drilling.

Division 2 Licences

No licences to
export water
outside
Canada

48(1) For the purpose of promoting the conservation and management of water, including the wise allocation and use of water, no licence shall be issued for the purpose of transferring water from the Province outside of Canada by any means, unless the licence is specifically authorized by a special Act of the Legislature.

(2) Subsection (1) does not apply to processed water, municipal water or treated water.

(3) In this section, “processed water”, “municipal water” and “treated water” mean processed water, municipal water and treated water as defined in the regulations for the purposes of this Act.

No transfer
between
basins

49 No licence shall be issued that authorizes the transfer of water between major river basins in Alberta unless the licence is specifically authorized by a special Act of the Legislature.

Public review

50 Before a Bill to amend section 48 or 49 or a special Act described in those sections is introduced into the Legislative Assembly, the Minister must consult with the public with respect to such a Bill..

Most
diversions
need licences

51(1) No person shall

- (a) commence or continue a diversion of water for any purpose, or
- (b) operate a works for the diversion of water,

unless the person either holds a licence that authorizes the diversion or operation of the works or pursuant to subsection (2) is not required to hold a licence.

(2) A person who commences or continues the diversion of water or operates a works

- (a) for household purposes in accordance with section 21,
- (b) in accordance with section 24,
- (c) pursuant to an approval,
- (d) that has been designated in the regulations as exempt from the requirement for a licence, or
- (e) for a specific diversion or class of diversion of water for a specific purpose, in an area of the Province that has been designated in the regulations as an area where a licence is not required for such a diversion of water for that specific purpose,

is not required to hold a licence for the diversion of that water or operation of the works.

Application

52(1) An application for a licence must be made to the Director and must

- (a) be in a form and manner satisfactory to the Director,
- (b) contain or be accompanied by any information required by the Director, and
- (c) be accompanied by the required fees.

(2) The Director may require an applicant to submit any additional information the Director considers necessary within any time period required by the Director.

(3) The Director may deem that an application for a licence is an application for an approval.

(4) If an applicant for a licence does not own the land in fee simple or the undertaking to which the licence is to be appurtenant, the applicant shall submit the written consent of the land owner or the owner of the undertaking as part of the application for the licence.

Issuance of
licences,
preliminary
certificates

53(1) On application for a licence by a person in accordance with this Act, the Director may, subject to sections 48, 49 and 56, issue or refuse to issue

(a) a preliminary certificate to that person, or

(b) a licence to that person for

(i) the diversion of water, or

(ii) the operation of a works for the diversion of water,

for any purpose specified in the regulations for the period of time stated in the licence.

(2) On application by the Government in accordance with this Act, the Director may, if there is no adverse effect on licensees, household users and traditional agriculture users, issue or refuse to issue a licence to the Government for

(a) the diversion of water,

(b) the operation of a works for the diversion of water, or

(c) providing or maintaining a rate of flow of water or water level requirements

that relates to the implementation of a water conservation objective.

(3) If the Director issues a licence under subsection (2)

(a) with respect to a water conservation objective described in section 1(1)(aaa)(ii), a priority number must be assigned to it in accordance with the date and time the Director receives the complete application,

(b) with respect to a water conservation objective described in section 1(1)(aaa)(i) or (iii)

(i) within 5 years after the date this Act comes into force, or

(ii) with respect to water reserved under section 69 within 5 years after the date this Act comes into force,

a priority number must be assigned to it that corresponds to the date and time this Act comes into force, or

(c) with respect to a water conservation objective described in section 1(1)(aaa)(i) or (iii), but not within the dates described in clause (b), the priority number must be assigned in accordance with the date and time the Director receives the complete application.

(4) The Director may issue a licence under this section subject to any terms and conditions the Director considers appropriate.

(5) In making a decision under this section, the Director

(a) shall consider, with respect to the applicable area of the Province, the recommendations, matters and factors that must be considered in issuing a licence, as set out in any applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects, and

(iii) effects on licensees, household users and traditional agriculture users,

resulting from the diversion, operation of a works or provision or maintenance of a rate of flow of water or water level requirements, and

(c) may consider

(i) effects on public safety,

(ii) with respect to irrigation, the suitability of the land for irrigated agriculture, and

- (iii) any other matters applicable to the licence that in the opinion of the Director are relevant, including any water conservation objective and water management plan.

(6) When the Director issues a licence it must be issued for a specified period of time determined in accordance with any applicable regulations.

(7) A licensee of water for irrigation purposes or a person who, under a licence, has acquired water from a licensee of water for irrigation purposes is entitled to divert up to a maximum of 7500 cubic metres of water per year for household purposes or as a traditional agriculture user, whether or not that licensee or person owns or occupies land that adjoins a river, stream, lake, natural watercourse or other natural water body.

(8) If a licensee or a person acquiring water from a licensee is entitled to divert water under section 21, that licensee or person is entitled to the water described under subsection (7), in addition to the entitlement under section 21.

(9) A licensee or any person who acts under a licence that authorizes the diversion of water with respect to water power development must comply with the terms and conditions of the licence and the regulations respecting water power development.

Using works of
another

54(1) If a person has applied for a licence to divert water through the use of another person's works, the Director may issue a licence for the diversion, whether the works are constructed, under construction or to be constructed, if

- (a) the operation of the works of the other person is licensed,
- (b) the granting of that licence will not interfere with the licensed diversion made or to be made by the owner of the works, unless the owner of the works has agreed otherwise in a term of the agreement referred to in clause (c),
- (c) the applicant for the licence and the owner of the works have made an agreement with respect to
 - (i) the use and maintenance of the works and, if necessary, the alteration and enlargement of the works,
 - (ii) the method of compensating the owner for the use and maintenance of the works, and

(iii) sharing the cost of altering, enlarging or jointly constructing the works, where applicable,

and

(d) the agreement has been submitted to the Director.

(2) In granting the licence under subsection (1), the Director may grant an approval to the applicant for the licence or the owner of the works to alter or enlarge any of the works described in subsection (1) if the Director is of the opinion that the alteration or enlargement is necessary in order for the water to be diverted through the use of the works.

(3) Notwithstanding subsection (2), if an agreement has not been submitted to the Director, the Minister may by order grant the licence under subsection (1) and prescribe how any necessary alteration or enlargement of the works is to be done, and the apportionment of the costs, if, in the opinion of the Minister,

(a) there has been an unreasonable delay in submitting the agreement, and

(b) it is in the public interest to do so.

(4) Unless otherwise provided for in the agreement, an applicant who is authorized to alter or enlarge a works previously constructed is responsible for any loss or damage that is sustained by the owner of the works as a result of the alteration or enlargement, and the Minister shall determine the amount to be paid for the loss or damage, and that determination is final.

Licence
applications
not accepted

55(1) If the Director is of the opinion that no further allocation of water should be made in a water management area or other geographical area or from a water body, the Director may decide that applications for licences shall not be accepted by the Director for a specified period of time.

(2) If the Director conducts a public review in a form and manner satisfactory to the Director, the Director may extend the period of time referred to in subsection (1).

(3) In making a decision that no further allocation of water should be made under subsection (1), the Director

(a) shall consider, with respect to the applicable area of the Province, the recommendations, matters and factors that must be considered in issuing a licence, as set out in any applicable approved water management plan.

- (b) may consider any existing, potential or cumulative
 - (i) effects on the aquatic environment,
 - (ii) hydraulic, hydrological and hydrogeological effects, and
 - (iii) effects on licensees, household users and traditional agriculture users,
 resulting from the diversion, operation of a works or provision or maintenance of a rate of flow of water or water level requirements, and
- (c) may consider any other matters that in the opinion of the Director are relevant, including any applicable water conservation objective and water management plan.

(4) If notice of a decision that no further allocation of water should be made has been provided under section 117(4), the Director shall refuse to accept an application for a licence.

(5) The Director shall consider and make a decision with respect to an application for a licence received prior to the date the Director provides notice under section 117(4).

(6) Notwithstanding subsection (4), the Director may accept an application for a licence for a temporary diversion of water.

(7) If the Director has made a decision under subsection (1) that no further allocation of water should be made and the Director is of the opinion that water may now be allocated even though the period of time referred to in subsection (1) has not expired, the Director shall provide notice in accordance with the regulations that applications for licences will be accepted.

No licence on
Minister's
order

56(1) If the Minister is of the opinion that a proposed

- (a) diversion of water, or
- (b) operation of a works,

should not proceed because it is not in the public interest having regard to the purposes of this Act, the Minister may order that no licence be issued in respect of the proposed diversion or operation.

(2) If the Minister makes an order under subsection (1), the Director shall give notice of the order to the applicant for the licence affected by the order.

57(1) If an amendment of a licence does not result in an increase in the volume of the diversion of water, the Director may, subject to the regulations and subsection (3), make an amendment to a licence

(a) on application by the licensee, or at the request of the Director with the consent of the licensee, including but not limited to an amendment

(i) to increase or decrease the rate of diversion of water,

(ii) to add a rate of diversion of water where none is specified in the licence,

(iii) to add terms and conditions to a licence,

(iv) to change the timing of the diversion of water specified in the licence, and

(v) to change the point of use of the diverted water,

if the Director is of the opinion that there is or will be no adverse effect on the rights of any other licensee, household user or traditional agriculture user and the proposed change would result in the improved conservation or management of a water body;

(b) on the Director's own initiative, without the consent of the licensee,

(i) in order to correct a clerical error in a licence,

(ii) to give effect to a transfer of an allocation under a licence,

(iii) to add a term or condition that relates to a monitoring, reporting or inspection requirement,

(iv) if the Director has received notice of a disposition of land or disposition of an undertaking to which a licence is appurtenant,

(v) if in the Director's opinion an adverse effect on the aquatic environment occurs or may occur that was not reasonably foreseeable at the time the licence was issued,

(vi) to amalgamate licences under section 59,

(vii) in order to limit the quantity of water to that which a works is capable of carrying, and

(viii) if there is a term or condition of the licence allowing the amendment.

(2) An application for an amendment to a licence under subsection (1) must be made to the Director and must

(a) be made in a form and manner satisfactory to the Director,

(b) contain or be accompanied by any information required by the Director, and

(c) be accompanied by the required fees.

(3) A licensee does not require an amendment to a licence in order to make an adjustment, repair or replacement or to have maintenance done during the course of normal operations of a works, as specified in the regulations, if the change does not result in an increase in the rate or volume of or a change in the timing of the diversion of water.

(4) Notwithstanding this section, the addition of or modifications to plans and specifications relating to a licence by a licensee that, in the opinion of the Director, do not substantially change the terms and conditions of the licence or the nature of the undertaking to which the licence relates do not constitute an amendment for the purposes of Parts 8 and 9.

Licence
suspension,
cancellation

58(1) The Director may suspend or cancel a licence

(a) on the request of the licensee;

(b) if a licence has been issued in error;

(c) if there is an emergency or if in the Director's opinion it is necessary for safety purposes;

(d) if there is a default in any payment of any fees or other money owing by the licensee to the Government under this Act;

(e) if there is non-performance or in the opinion of the Director there is a serious breach of any term or condition of the licence;

(f) if, in the opinion of the Director and subject to the regulations,

- (i) there has been no diversion of any of the water allocated in the licence, or there has been a failure or ceasing to exercise the rights granted under the licence, over a period of 3 years, and
- (ii) there is no reasonable prospect that the licensee will resume diversion of all or part of the water specified in the licence or resume the exercise of the rights granted under the licence;
- (g) if, in the opinion of the Director, the licensee has made a material misrepresentation in obtaining the licence;
- (h) if the licensee has been convicted of an offence under this Act, other than an offence under section 148(1)(h), (j), (n) or (o);
- (i) if, in the opinion of the Director, a significant adverse effect on the aquatic environment has occurred, is occurring or may occur that was not reasonably foreseeable at the time the licence was issued.

(2) If a licence has been cancelled or suspended, all rights of the licensee cease, and in addition to the Director's exercising any powers under Parts 7 and 10, the Government may recover any fees owing to the Government by the licensee under this Act.

Amalgamation
of licences

59(1) The Director may, if in the Director's opinion it is appropriate to do so, amalgamate 2 or more licences if

- (a) all of the licences to be amalgamated are held by the same licensee,
- (b) the licensee has requested the amalgamation,
- (c) in the Director's opinion the amalgamation will improve the administration of the licences under this Act, and
- (d) there is no adverse effect on other licensees, household users or traditional agriculture users.

(2) The Director shall assign to the licence resulting from the amalgamation of all the licences the priority number of the licence that was amalgamated that had the priority number that corresponded to the most recent date and time.

(3) The licence resulting from the amalgamation may contain any terms and conditions

	<ul style="list-style-type: none"> (a) contained in any of the licences that have been amalgamated, or (b) that, in the opinion of the Director, are necessary to give effect to the amalgamation.
Security	<p>60 If required by the regulations, an applicant for a licence or a licensee shall provide financial or other security and carry insurance in respect of the matters to which the licence relates in an amount and type required by the Director.</p>
Licences run with land	<p>61(1) Every licence issued, including licences issued under Part 5, Division 2, shall specify the land or undertaking to which the licence is appurtenant.</p> <p>(2) Subject to Part 5, Division 2, a licence and all works operated under the licence</p> <ul style="list-style-type: none"> (a) are appurtenant to the land or undertaking specified in the licence, (b) are inseparable from the land or undertaking specified in the licence, and (c) run with the land or undertaking on disposition of the land or undertaking, unless the Lieutenant Governor in Council orders otherwise.
Licence renewal application	<p>62(1) A licensee may apply for a renewal of the licence in a form and manner satisfactory to the Director at any time prior to the expiry date specified in the licence.</p> <p>(2) The Director shall give notice to the licensee prior to the expiration of the licence that the licence expires on the expiry date of the licence.</p> <p>(3) If the Director does not receive an application for renewal after providing notice under subsection (2),</p> <ul style="list-style-type: none"> (a) the licence expires on the expiry date of the licence, or (b) if the Director is of the opinion that the failure to apply is not the fault of the licensee, the Director may amend the licence, either before or after the licence expires, to extend the expiry date so that the applicant has the opportunity to apply to renew the licence.

(4) If a licence had expired when the expiry date was extended by an amendment under subsection (3), the licence is deemed to have been a valid licence from the time it expired until the date it was amended under subsection (3).

(5) If the Director fails to give notice under subsection (2), the licence is automatically renewed on the same terms and conditions for a term of one year.

63(1) If an application for renewal is received by the Director prior to the expiration of the licence, the term of the licence is extended by 6 months or for a longer time specified by the Director, and the Director shall

- (a) renew the licence, or
- (b) refuse to renew the licence in accordance with subsection (2),

by the new expiry date of the licence.

(2) The Director may make a decision not to renew a licence only if

- (a) the Director is of the opinion that it is not in the public interest to renew the licence,
- (b) the renewal of the licence would be inconsistent with an approved water management plan,
- (c) the water conservation objective of a water body from which the diversion of water will be made is not being met,
- (d) the renewal, in the opinion of the Director would cause damage to the aquatic environment,
- (e) in the opinion of the Director,
 - (i) there has been no diversion of any of the water allocated in the licence, or there has been a failure or ceasing to exercise the rights granted under the licence, over a period of 3 years, and
 - (ii) there is no reasonable prospect that the licensee will resume diversion of all or part of the water specified in the licence or resume the exercise of the rights granted under the licence,

or

(f) there is a term or condition of the licence that the licence is not renewable.

(3) If the Director makes a decision not to renew a licence, the Director shall provide written reasons for the decision to the applicant for the renewal.

(4) The Director may extend the expiry date of a licence for the purposes of this section.

Public review
of renewal

64(1) The Director may, subject to the regulations, conduct a public review with respect to an application for the renewal of a licence.

(2) A public review must be carried out in the form and manner determined by the Director.

Temporary Diversion Licence

Application

65(1) An application for a licence for the temporary diversion of water must be made to the Director and must

- (a) be made in a form and manner satisfactory to the Director,
- (b) contain or be accompanied by any information required by the Director, and
- (c) be accompanied by the required fees.

(2) The Director may require an applicant to submit any additional information the Director considers necessary within any time period required by the Director.

Issuance of
temporary
diversion
licence

66(1) The Director may issue a licence for the temporary diversion of water to any person subject to any terms and conditions the Director considers appropriate.

(2) The Director shall issue a licence for the temporary diversion of water for a specified period of time, not to exceed one year.

(3) The Director may extend the expiry date of a licence for the temporary diversion of water, provided that the total period for which the licence has been issued does not exceed one year.

(4) Notwithstanding subsections (2) and (3), the Director may reissue a licence for a temporary diversion of water, on application.

(5) Sections 20, 29, 32, 52, 53, 54, 57, 58 and 59 and Part 5 are not applicable to a licence for the temporary diversion of water.

Amendments,
cancellations,
suspensions

67 The Director may

- (a) on the Director's own initiative, amend a licence for a temporary diversion of water, and
- (b) suspend or cancel a licence for the temporary diversion of water at any time.

Licence to be
onsite

68 A holder of a licence for the temporary diversion of water shall ensure that a copy of the licence is kept at the place where the diversion of water occurs and if the water is transported by a vehicle shall ensure that a copy of the licence is kept in the vehicle while the water is transported.

Crown
reservation

69(1) The Minister may by order reserve water that is not currently allocated under a licence or registration or specified in a preliminary certificate in order

- (a) to investigate how the water should be used, or
- (b) for any purpose.

(2) When making an order under subsection (1), the Minister may include any terms and conditions, prescribe the priority of any allocation to be made of the reserved water, and set out

- (a) the purposes for which,
- (b) the manner in which,
- (c) any person to whom, and
- (d) the time period within which,

an allocation of the reserved water may be made by the Director.

(3) The Director may

- (a) retain the water reserved in the water body in accordance with the terms and conditions of an order under subsection (1),
- (b) issue a licence for the temporary diversion of the reserved water, unless prohibited by an order under subsection (1).

- (c) issue a licence for the diversion of the reserved water if allowed by and in accordance with an order under subsection (1), and
- (d) refuse to accept an application for a licence for the reserved water, unless the refusal is contrary to an order under subsection (1).

(4) If the Director issues a licence under subsection (3), including a licence for the temporary diversion of water, the Director shall do so in accordance with this Act.

(5) The Minister may amend a term or condition of an order made under subsection (1).

(6) If the Minister repeals an order under subsection (1), any of the reserved water that has not been allocated under a licence must be dealt with in accordance with this Act, unless otherwise provided for in an order by the Minister.

Division 3 Preliminary Certificates

Issuance of
preliminary
certificates

70(1) If a person has applied for a licence, the Director may issue a preliminary certificate to that person for the period of time stated in the certificate.

(2) In considering whether to issue a preliminary certificate, the Director

- (a) shall consider, with respect to the applicable area of the Province, the recommendations, matters and factors that must be considered in issuing a licence, as set out in any applicable approved water management plan;
- (b) may consider any existing, potential or cumulative
 - (i) effects on the aquatic environment,
 - (ii) hydraulic, hydrological and hydrogeological effects, and
 - (iii) effects on licensees, household users and traditional agriculture users,

resulting from the diversion of water, operation of a works or provision or maintenance of a rate of flow of water or water level requirements, and

- (c) may consider

- (i) effects on public safety,
- (ii) with respect to irrigation, the suitability of the land for irrigated agriculture, and
- (iii) any other matters applicable to the licence that in the opinion of the Director are relevant, including any applicable water conservation objective or water management plan.

(3) In a preliminary certificate the Director

- (a) shall specify the conditions that must be complied with before a licence will be issued, including but not limited to a requirement for securing any necessary rights of way,
- (b) shall specify a volume of water and related terms and conditions that are to be included in a licence when the preliminary certificate holder fulfils all conditions specified in the preliminary certificate,
- (c) shall specify the priority number assigned to the application for the licence,
- (d) shall specify the date for submission of a certificate of completion,
- (e) may specify any other terms and conditions that the Director considers appropriate including but not limited to the rate and timing of the diversion, and
- (f) may specify that any further terms and conditions may be added to a licence that is issued subsequent to the preliminary certificate.

(4) A certificate of completion is a written statement by a preliminary certificate holder confirming that the conditions referred to in subsection (3)(a) have been complied with.

No preliminary
certificate on
Minister's
order

71(1) If the Minister is of the opinion that a proposed

- (a) diversion of water, or
- (b) operation of a works for the diversion of water,

should not proceed because it is not in the public interest having regard to the purposes of this Act, the Minister may order that a preliminary certificate shall not be issued in respect of the proposed diversion or operation.

(2) If the Minister makes an order under subsection (1), the Director shall give notice of the order to the applicant for the licence, if an application has been submitted.

Licence issues **72(1)** If the holder of a preliminary certificate submits a certificate of completion in a form and manner satisfactory to the Director, the Director shall

- (a) issue a licence, or
- (b) if in the Director's opinion the conditions set out in the preliminary certificate have not been fulfilled, refuse to issue a licence.

(2) If the Director issues a licence under subsection (1), the Director shall include in the licence

- (a) the volume of water and related terms and conditions contained in the preliminary certificate,
- (b) the rate and timing of the diversion, and
- (c) the priority number as assigned to the application for the licence.

(3) Notwithstanding subsection (2),

- (a) if a certificate of completion indicates that a smaller volume of water will be diverted than the volume specified in the application for the licence, or
- (b) in the Director's opinion the capacity of the works constructed is insufficient to divert the volume or rate of water specified in the application for the licence and any applicable approval,

the Director may issue the licence for a smaller quantity or with a change in the rate or timing of the diversion.

(4) If a licence has been issued subsequent to a preliminary certificate, the licensee has only those rights provided in the licence, and has no further rights with respect to the preliminary certificate.

(5) If the holder of a preliminary certificate fails to submit a certificate of completion by the date required by the preliminary certificate, the preliminary certificate and the application for the licence become void on the date that the preliminary certificate expires.

Preliminary
certificate
extension

73(1) The Director may extend the expiry date of a preliminary certificate for one or more periods provided that the total extended time is not longer than 2 years.

(2) Notwithstanding subsection (1), the Minister may extend the expiry date of a preliminary certificate for one or more periods of any length of time if the Minister considers that it is in the public interest to do so.

Preliminary
certificate
amendment

74(1) If an amendment of a preliminary certificate does not result in an increased volume, the Director may, subject to the regulations, make an amendment to the preliminary certificate

- (a) on application by the preliminary certificate holder, or with the consent of the preliminary certificate holder, including but not limited to an amendment
 - (i) to increase or decrease the rate of diversion of water,
 - (ii) to add a rate of diversion where none is specified in the preliminary certificate,
 - (iii) to add terms and conditions to a preliminary certificate,
 - (iv) to add or change the timing of diversion specified in the preliminary certificate, and
 - (v) to change the point of use of the diverted water

if in the Director's opinion there is and will be no adverse effect on the rights of any licensee, household user or traditional agriculture user, the total volume specified in the preliminary certificate will not be increased, and the proposed change will result in the improved conservation or management of a water body, and

- (b) on the Director's own initiative, without the consent of the preliminary certificate holder,
 - (i) in order to correct a clerical error in a preliminary certificate,
 - (ii) to add a term or condition that relates to a monitoring, reporting or inspection requirement,

- (iii) to give effect to a disposition of land or an undertaking to which a preliminary certificate is appurtenant,
- (iv) if in the Director's opinion an adverse effect on the aquatic environment has occurred, is occurring or may occur that was not reasonably foreseeable at the time the preliminary certificate was issued, or
- (v) if there is a term or condition of the preliminary certificate allowing the amendment.

(2) An application under subsection (1)(a) must be made in a form and manner satisfactory to the Director.

(3) Notwithstanding subsections (1) and (2), the addition of or modifications to plans and specifications, relating to a preliminary certificate, by a preliminary certificate holder that, in the opinion of the Director, do not substantially change the terms and conditions of the preliminary certificate or the nature of the undertaking to which the preliminary certificate relates, do not constitute an amendment for the purposes of Parts 8 and 9.

Preliminary
certificate
cancellation

75(1) The Director may cancel a preliminary certificate

- (a) on the request of the preliminary certificate holder,
- (b) if a preliminary certificate has been issued in error,
- (c) if there is a default in any payment of any fees or money owing to the Government under this Act by the preliminary certificate holder,
- (d) if, in the opinion of the Director, there is a serious breach of any term or condition of the preliminary certificate,
- (e) if a preliminary certificate holder has ceased to exercise the authority granted under an approval that is applicable to the preliminary certificate,
- (f) if the preliminary certificate holder made a material misrepresentation in obtaining the preliminary certificate,
- (g) if the preliminary certificate holder has been convicted of an offence under this Act, other than an offence under section 148(1)(h), (j), (n) or (o), or
- (h) if in the Director's opinion an adverse effect on the aquatic environment has occurred, is occurring or may occur that

was not reasonably foreseeable at the time the preliminary certificate was issued.

(2) If a preliminary certificate has been cancelled, all rights of the preliminary certificate holder cease, and in addition to the Director's exercising any powers provided under Parts 7 and 10, the Government may recover any fees or other money owing to the Government under this Act by the preliminary certificate holder.

Preliminary
certificates run
with land

76(1) Every preliminary certificate issued must specify the land or the undertaking to which it is appurtenant.

(2) A preliminary certificate

- (a) is appurtenant to the land or undertaking specified in the preliminary certificate,
- (b) is inseparable from the land or undertaking specified in the preliminary certificate, and
- (c) runs with the land or undertaking on any disposition of the land or undertaking.

Division 4 Registration

Application

77(1) If water is diverted and used as described in section 24 on the date this Act comes into force, an application may be made to register the diversion.

(2) An application for a registration of a diversion of water described in section 24 must

- (a) be made by the person who owns the land in fee simple to which the registration is to be appurtenant,
- (b) be made within 3 years after the date this Act comes into force,
- (c) be with respect to water used to raise animals for commercial or non-commercial purposes or to apply pesticide to crops as part of a farm unit,
- (d) contain information respecting
 - (i) the date of first use of the water for raising animals or applying pesticide to crops by any person on the land to which the registration is to be appurtenant,

- (ii) all sources of water used for raising animals or applying pesticides to crops on the specified land,
- (iii) a legal description of the land to which the registration is to be appurtenant,
- (iv) estimates of the volumes and rates of water used for purposes described in clause (c) on the specified land from the specified sources and where on the land the water is used, and
- (v) the boundaries and size of the parcel of land,

and

- (e) meet the requirements of the regulations.

(3) The Director may require an applicant for a registration to submit any additional information the Director considers necessary within any time period required by the Director.

Registration
effected

78(1) On receipt of a complete application for a registration, the Director shall register the diversion of up to a maximum of 6250 cubic metres of water per year, unless the Director has reason to believe that the information provided by the applicant is incorrect, in which case the Director may refuse to register the diversion of water.

(2) A registration must be made in perpetuity.

(3) The Director may effect only one registration for a person unless the Director is satisfied that the person

- (a) is raising animals on or applying pesticides to crops on a parcel of land that is distinct from any other parcel of land for which the person is a registrant, and
- (b) the raising of animals and applying of pesticides is being done as part of a different farm unit from the farm unit to which the other registration relates.

No registration
on Minister's
order

79(1) If the Minister is of the opinion that a proposed registration should not proceed because it is not in the public interest having regard to the purposes of this Act, the Minister may order that no registration be made in respect of the proposed diversion of water.

(2) If the Minister makes an order under subsection (1), the Director shall give notice to the applicant for the registration.

Registration
amendments

80(1) If an amendment does not result in an increase in the volume of the diversion of water, the Director may amend a registration without the consent of the registrant

- (a) in order to correct a clerical error in the registration, or
- (b) if the Director has received notice of a disposition of an interest in land to which a registration is appurtenant.

(2) The Director may amend a registration

- (a) without the consent of the registrant if the Director has received a court order directing the amendment of the registration, or
- (b) if in the opinion of the Director all the persons affected by the registration have agreed to the amendment.

Registration
suspension,
cancellation

81(1) Notwithstanding section 78(2), the Director may suspend or cancel a registration

- (a) on the request of the registrant;
- (b) if a registration has been issued in error;
- (c) if there is an emergency or in the Director's opinion it is necessary for safety purposes;
- (d) if there is a default in any payment of any fees or other money owing by the registrant to the Government under this Act;
- (e) if, in the opinion of the Director, the registrant made a material misrepresentation in obtaining the registration;
- (f) if the registrant has been convicted of an offence under this Act, other than an offence under section 148(1)(h), (j), (n) or (o);
- (g) if, in the opinion of the Director, a significant adverse effect on the aquatic environment has occurred, is occurring or may occur.

(2) If a registration has been cancelled or suspended, all rights of the traditional agriculture user with respect to the land to which the registration is appurtenant cease, and in addition to the Director's exercising any powers provided under Part 7 and Part 10, the Government may recover any fees owing by the traditional agriculture user under this Act.

Registration
runs with land

82(1) A registration must specify the land and sources of water to which the registration is appurtenant and the amount of water that may be diverted pursuant to the registration.

(2) A registration

- (a) is inseparable from the land specified in the registration,
- (b) is appurtenant to the land specified in the registration, and
- (c) runs with the land on any disposition of the land unless the Lieutenant Governor in Council orders otherwise.

Conversion to
licence

83(1) A registrant may apply to have the registrant's registration converted to a licence 5 or more years after the date of registration if, in the opinion of the Director, there are no outstanding disputes with respect to the registration.

(2) An application for a conversion of a registration to a licence must be made under Division 2 in a form and manner satisfactory to the Director.

(3) If a licence is issued with respect to the diversion authorized by the registration,

- (a) it must be issued in perpetuity,
- (b) it must be assigned the same priority number as the registration, and
- (c) the Director shall cancel the registration.

PART 5

TRANSFERS, CHANGES IN OWNERSHIP, DIVERSIONS

Division 1

Change in Ownership, Termination of Authorizations When Diversions Run Naturally

Land,
undertaking
dispositions

84(1) If an approval holder, preliminary certificate holder, registrant or licensee disposes of land or an undertaking to which an approval, preliminary certificate, registration or licence is appurtenant, the approval holder, preliminary certificate holder, registrant or licensee shall notify the Director in writing of that disposition in a form and manner satisfactory to the Director.

(2) If the owner of land to which an approval, preliminary certificate or licence is appurtenant is not the approval holder, preliminary certificate holder or licensee and the owner of land disposes of the land, the owner and the approval holder, preliminary certificate holder or licensee shall notify the Director in writing of that disposition in a form and manner satisfactory to the Director.

(3) If an owner of land, approval holder, preliminary certificate holder, registrant or licensee who disposes of land or an undertaking to which the approval, preliminary certificate, licence or registration is appurtenant fails to provide notice to the Director in accordance with this section, the owner of the land, approval holder, preliminary certificate holder, registrant, licensee and the purchaser of the land or undertaking to which the approval, preliminary certificate, registration or licence is appurtenant

(a) are jointly and severally liable for carrying out the duties and responsibilities specified in the approval, preliminary certificate, registration or licence, and

(b) are subject to the duties and obligations under this Act related to the approval, preliminary certificate, registration or licence.

(4) In addition to the ability to issue a water management order to a person who has purchased land or an undertaking to which an approval, preliminary certificate, registration or licence is appurtenant, if the Director has not received a notification under this section, the Director may issue a water management order to the land owner, approval holder, preliminary certificate holder, registrant or the licensee, who has conveyed or disposed of the land or undertaking.

Water
declared
naturally
occurring

85(1) The Director may declare that a drainage ditch, channel realignment or oxbow cutoff that has been created

(a) pursuant to an approval or licence issued under this Act,

(b) pursuant to an authority, permit, interim licence or licence issued under the *Water Resources Act* or a predecessor Act, as defined in section 20, before the coming into force of this Act, or

(c) without an authority, permit, licence or approval under an Act

is a naturally occurring water body for the purposes of this Act.

(2) If a declaration is made under subsection (1),

- (a) the approval, interim licence, licence, permit or other authorization that authorized the activity or diversion of water that created the drainage ditch, channel realignment or oxbow cutoff expires on the date the declaration comes into effect,
- (b) the drainage ditch, channel realignment or oxbow cutoff shall be treated as a naturally occurring water body for the purposes of this Act, and
- (c) the approval holder, interim licensee, licensee, permit holder or authorization holder and the owner of the land to which the approval, licence, permit or authorization was appurtenant is relieved of all further responsibilities with respect to the drainage ditch, channel realignment or oxbow cutoff.

Division 2 Transferring Water Allocations

Water
allocation
transfer
application

86(1) An application for a transfer of an allocation of water under a licence may be made only if, in the opinion of the Director,

- (a) the ability to transfer an allocation in the area of the Province referred to in the application has been authorized
 - (i) in an applicable approved water management plan, or
 - (ii) if there is no applicable approved water management plan, by an order of the Lieutenant Governor in Council,
- (b) the proposed transfer of an allocation is not from a licence that was issued as a result of a previous transfer if the transferred allocation is to revert back to the original licence, and
- (c) the allocation of water to be transferred is held under a licence in good standing.

(2) An application for a transfer of an allocation of water under a licence must be made to the Director and

- (a) must be made in a form and manner satisfactory to the Director,
- (b) must contain or be accompanied by any information required by the Director,

- (c) must be accompanied by the required fees, and
- (d) may be made with respect to all or part of an allocation under a licence.

(3) The Director may require an applicant to submit any additional information that the Director considers necessary within any time period required by the Director.

(4) If an application under this section is made by a person other than the licensee, the written consent of the licensee must be provided to the Director with the application.

(5) If an applicant for a transfer of an allocation does not own the land in fee simple to which the new licence is to be appurtenant, the written consent of the land owner to which the new licence is to be appurtenant must be provided to the Director with the application for the transfer.

(6) If the licensee does not own the land to which the licence is appurtenant, the written consent of the land owner must be provided to the Director with the application for the transfer.

Transfer
approved

87(1) Subject to subsection (2), on application by a person in accordance with this Part, the Director may

- (a) approve the transfer of an allocation of water under a licence and issue a new licence for the transferred allocation of water subject to any terms and conditions that the Director considers appropriate, including specifying in the licence the land or undertaking to which the licence is appurtenant, or
- (b) refuse to approve the transfer of an allocation of water.

(2) The Director shall conduct a public review of a proposed transfer of an allocation of water, in a form and manner that the Director considers appropriate, and may approve a transfer only if

- (a) the volume of water to be transferred does not exceed the allocation under the licence from which the transfer is to be made,
- (b) the transfer, in the opinion of the Director, does not impair the exercise of rights of any other licensee or household user or traditional agriculture user, and
- (c) the transfer, in the opinion of the Director, will not cause a significant adverse effect on the aquatic environment.

- (3) In making a decision under subsection (1), the Director
- (a) shall consider, with respect to the applicable area of the Province, the recommendations, matters and factors that must be considered in approving a transfer of an allocation of water under a licence, as set out in the applicable approved water management plan,
 - (b) may consider any existing, potential or cumulative
 - (i) effects on the aquatic environment and any applicable water conservation objective,
 - (ii) hydraulic, hydrological and hydrogeological effects, and
 - (iii) effects on any other licensees, household users and traditional agriculture users,resulting from the transfer of the allocation of water, and
 - (c) may consider
 - (i) effects on public safety,
 - (ii) with respect to irrigation, the suitability of the land to which the allocation is to be transferred for irrigated agriculture,
 - (iii) the allocation of water that the licensee has historically diverted under the licence, and
 - (iv) any other matters applicable to the transfer of the allocation that the Director considers relevant.
- (4) When the Director issues a new licence under subsection (1)(a),
- (a) if only part of an allocation of water under a licence is transferred the Director may amend any terms and conditions of the licence from which the transfer of the allocation of water is to be made
 - (i) with respect to the rate of flow and volume of water diverted, and
 - (ii) to give effect to the transfer,and may make amendments, other than those described in subclauses (i) and (ii), if they are within the Director's powers to amend under section 57;

- (b) if all of the water allocated under that licence has been transferred, the Director shall cancel the licence from which the transfer is to be made.
- (5) If a transfer of an allocation of water is approved under this Division,
 - (a) an amended licence that results from the transfer retains the priority number assigned to it before the transfer, and
 - (b) the new licence that is issued in respect of the transferred allocation
 - (i) must be given the same priority number as the licence from which the allocation was transferred, and
 - (ii) is appurtenant to the land or the undertaking specified in the new licence.
- (6) Notwithstanding subsection (1), allocations of water with respect to the following may not be transferred under this Division:
 - (a) a licence for a temporary diversion of water;
 - (b) a licence issued as a result of a previous transfer if the allocation is to revert back to the original licence, for a specified period of time;
 - (c) a right to divert water for household purposes;
 - (d) a right to divert water pursuant to a registration;
 - (e) a right to divert water pursuant to an approval;
 - (f) a right to divert water pursuant to a preliminary certificate.
- (7) A transfer of an allocation made under this Division may be made
 - (a) with respect to all or part of the rights to divert water under a licence, and
 - (b) either permanently or for a specified period of time.
- (8) On the expiry of a licence issued to transfer an allocation that is to revert back to the original licence,
 - (a) the new licence is void,

- (b) the allocation of water under the new licence reverts back to the licence from which the transfer was made, and
- (c) the Director may, subject to the regulations, take any necessary steps to reverse the transfer, including but not limited to restoring the licence from which the transfer was made to its original form.

No transfer on
Minister's
order

88(1) If the Minister is of the opinion that a proposed transfer of an allocation of water is not in the public interest having regard to the purposes of this Act, the Minister may order that a transfer of an allocation of water not be approved.

(2) If the Minister makes an order under subsection (1), the Director shall give notice of the order to the applicant for the transfer, if an application has been submitted.

Water
conservation
holdback

89(1) If the Director is of the opinion that it is in the public interest in order to protect the aquatic environment or to implement a water conservation objective, having regard to any applicable approved water management plan or order of the Lieutenant Governor in Council, the Director may, subject to the regulations, withhold up to 10% of an allocation of water under a licence that is being transferred.

(2) If there has been a withholding of an allocation of water under subsection (1),

- (a) the water may be retained in the water body without issuing a licence for that water,
- (b) the water may be reserved under section 69, or
- (c) the Director may issue a licence to the Government under section 53(2) for an allocation of that water in accordance with the priority and terms and conditions of the licence from which the water was held back.

(3) If a withholding of an allocation of water under subsection (1) has been made with respect to an allocation of a transfer of water that is to revert back to the original licence, the hold-back does not revert back to the original licence and remains with the Government.

Regulations

90 The Minister may make regulations

- (a) providing for any matters considered necessary to carry out the purposes of transfers of allocations of water under licences;
- (b) respecting how transfers of allocations of water under licences revert back to original licences;
- (c) exempting any licence or class of licence from all or any of the provisions of this Division or of the regulations under this Division, indefinitely or for a period of time, with or without conditions;
- (d) generally, providing for any other matters necessary for the purposes of this Division.

PART 6

WATER MANAGEMENT WORKS, UNDERTAKINGS AND FLOOD RISK AREAS

Construction
and operation
by Minister

91 If the Minister is of the opinion that it is in the public interest to do so, the Minister may

- (a) construct, operate, maintain, repair, control, replace and remove a works, and
- (b) initiate and carry out an undertaking,

for any purpose that the Minister considers appropriate if the Minister obtains an approval or licence.

Directing
construction,
etc.

92 The construction, operation, maintenance, repair, control, replacement or removal of a works or the initiation or carrying out of an undertaking may be

- (a) undertaken by or under the direction of the Director, or
- (b) undertaken by an agent, employee or person under contract to the Government, a local authority or the Government of Canada if the Director designates the agent, employee or person as a person authorized to carry out the construction, operation, maintenance, repair, control, replacement or removal or to initiate or carry out the undertaking.

Contract re
works or
undertaking

93 If the Minister enters into a contract with any person for the construction, operation, maintenance, repair, control, replacement or removal of a works, or the initiation or carrying out of an undertaking, under this Act except where otherwise provided, the *Public Works Act* applies to the tenders and the contracts.

Tenders

94(1) In addition to complying with the provisions regarding tenders provided for in the *Public Works Act* the Minister may, when it appears practical or expedient to do so, call for tenders by invitation, public advertisement or public notice for the operation, maintenance, control, replacement and removal of a works or the initiation or carrying out of an undertaking.

(2) The Minister may provide notice of a call for a tender or any extension of time for receiving a tender in accordance with the regulations.

Withdrawal of
tender

95(1) A tender may be withdrawn at any time up to the time fixed for receiving tenders, but only on a request in writing signed by the tenderer or an agent of the tenderer.

(2) No person may withdraw a tender at or after the time fixed for receiving tenders

(a) until the Government has entered into a contract with some other person for the performance of the work, the initiation or carrying out of the undertaking or the supplying of the materials specified in the notice inviting tenders, or

(b) until 60 days after the time fixed for receiving tenders,

whichever first occurs.

Acquisitions
and takeovers
by Minister

96(1) The Minister may, if the Minister is of the opinion that it is in the public interest to do so, acquire

(a) pursuant to section 170, or

(b) through any gift or bequest to the Government,

a works that is under construction or completed or an undertaking that has been initiated or carried out.

(2) The Minister may, if the Minister is of the opinion that it is in the public interest to do so, take over and operate a works that is under construction or completed or carry out an undertaking, if

(a) the works or undertaking has been abandoned,

- (b) it is necessary for public safety,
 - (c) in the opinion of the Director, the works is being or has been operated or the undertaking is being or has been initiated or carried out contrary to the terms and conditions of an approval or licence or this Act,
 - (d) the licence or preliminary certificate with respect to the works or undertaking has been suspended or cancelled,
 - (e) the person, approval holder, preliminary certificate holder or licensee responsible for the works or undertaking is bankrupt or insolvent, or
 - (f) an emergency has been declared under section 114.
- (3) If a works or undertaking has been acquired or taken over under subsection (1) or (2), the Minister has, in addition to all the powers provided under this Act, all the powers, duties and privileges of the approval holder, preliminary certificate holder or licensee applicable to the works, including but not restricted to
- (a) operating the works or carrying out the undertaking that has been acquired or taken over,
 - (b) setting and collecting fees and charges for the use of the works or undertaking by others, and
 - (c) generally carrying on business with respect to the works or undertaking.
- (4) On acquiring or taking over a works or undertaking under subsection (1) or (2), the Minister is entitled to recover and receive
- (a) from any person under any contract with the approval holder, preliminary certificate holder or licensee for the supply of water, all money then accrued to the approval holder, preliminary certificate holder or licensee, and
 - (b) from all water users, all money that they would have been under an obligation to pay in respect of the water supply if the approval holder, preliminary certificate holder or licensee had continued the operation of the works or the initiation or carrying out of the undertaking.
- (5) If the Minister has acquired or taken over a works or undertaking under subsection (1) or (2) for irrigation purposes, the Minister has all the powers, privileges and immunities of a board of directors of an irrigation district.

(6) The Minister may specify which land is to be served by the works or undertaking acquired or taken over under subsection (1) or (2).

(7) If the Minister has acquired or taken over a works or undertaking under subsection (1) or (2) for the purposes of an emergency or public safety, the Minister

(a) may pay compensation to the approval holder, preliminary certificate holder or licensee for any losses incurred by the approval holder, preliminary certificate holder or licensee as a result of the acquisition or take-over, in the manner and amount the Minister considers appropriate, but

(b) shall not pay any compensation to any other person.

Disposal of
works or
undertaking

97 The Minister may, if the Minister is of the opinion that it is in the public interest to do so, dispose of a works or undertaking acquired or taken over under section 96 by sale or other means.

Repossession
by licensee or
preliminary
certificate

98 If the Minister has acquired or taken over a works or undertaking under section 96, and has not disposed of the works or undertaking under section 97, the approval holder, preliminary certificate holder or licensee is entitled to resume the possession and operation of it at any time that the Minister considers appropriate, on

(a) paying to the Minister, if required by the Minister, any costs incurred by the Minister in the operation of the works or the carrying out of the undertaking, and

(b) satisfying the Minister that the approval holder, preliminary certificate holder or licensee is able to operate the works or carry out the undertaking.

Use of land
controlled,
administered
by Minister

99(1) For the purposes of water conservation and management, the Director may, subject to the regulations, by order

(a) permit, restrict, prohibit or impose any conditions on

(i) the use for any purpose by a person, including but not limited to use by a person's animals, of any land or part of any land or water that is related to or used in connection with a works or undertaking in which the Government has an interest,

(ii) the use of any reservoir or part of any reservoir,

(iii) the use, speed, direction of travel, stopping, leaving or parking of any vehicle or thing on any land or reservoir,

(iv) the erection of signs or devices on land, and

(v) any nuisance or noise on land,

that is under the administration of the Minister, and

(b) seize, remove or retain any vehicle or thing parked or left in contravention of the regulations, where the vehicle or thing is located on land or a reservoir under the administration or control of the Minister for the purposes of water conservation and management.

(2) The person who seizes, removes or retains a vehicle or thing under subsection (1)(b) must provide a justice with an affidavit describing the vehicle or thing and the reason for the seizure, removal or retention, and the disposition of the vehicle or thing.

(3) A person may make an application to a justice for an order respecting the disposition of anything seized, removed or retained under subsection (1)(b), and the justice shall

(a) order that the application be stayed and be dealt with pursuant to section 156, or

(b) if section 156 is not applicable, make an order that the thing seized, removed or retained

(i) be confiscated to the Crown in right of Alberta, or

(ii) be returned to the person who is entitled to it.

Flood risk
areas

100(1) If the Minister is of the opinion that there is or may be a risk to human life or property as a result of flooding, the Minister may designate, in accordance with the regulations,

(a) any area of land in the Province as a flood risk area, either generally or on an interim basis, and

(b) specify any acceptable uses with respect to the flood risk area.

(2) If the Minister has made a designation under subsection (1)(a),

(a) no further Government works or undertaking shall be located or carried out,

- (b) no Government financial assistance will be given to any person who engages in a use other than a use specified under subsection (1)(b), and
- (c) money and services and Government disaster assistance programs are restricted with respect to flood damage,

in the designated flood risk area after the designation has been made, except as specified in the designation.

(3) The Minister must consult with the local authority that is responsible for a proposed flood risk area before making a designation under subsection (1).

(4) For the purposes of subsection (3), “local authority” does not include a local authority as defined in section 1(1)(aa)(v) to (viii).

PART 7

REMEDIAL MEASURES

Division 1

Resolution of Disputes, Removal of Works

Dispute
resolution

101 If 2 or more persons are unable to resolve a complaint or dispute with respect to a matter under this Act, any one of the persons involved in the complaint or dispute, other than a dispute with respect to a registration, may make a request to the Director that the matter be reviewed.

Mediation

102(1) If a review of a complaint or dispute has been conducted, the Director may appoint a mediator to assist in resolving the complaint or dispute if

- (a) the Director is of the opinion that there has not been a contravention of this Act with respect to the complaint or dispute, and
- (b) the persons involved in the complaint or dispute are in agreement that the matter should be referred to a mediator.

(2) The Director may require all or part of the costs of a mediator to be paid by the persons involved in the complaint or dispute who participated in the mediation.

Removal of
works and
obstructions

103 The Director or any person authorized in writing by the Director as a representative of the Director may, using reasonable

force, at any reasonable time, enter on any land and remove or otherwise render ineffective

- (a) a works constructed without an approval,
- (b) a works not constructed in accordance with an approval,
- (c) a works referred to in an approval or licence that has expired or has been cancelled, or
- (d) a dam constructed by beaver, or any natural or other obstruction, including but not limited to an obstruction formed by soil, debris, ice or vegetation, where the dam or obstruction causes the diversion of or interferes with the flow of any water,

if, in the opinion of the Director, there is an interference with the rights of any licensee, household user or traditional agriculture user, or with private or public property, as a result of the works, dam or obstruction.

Division 2 Water Management Orders

Order issues

104(1) An inspector or the Director may issue a water management order

- (a) to any person for the purposes of administering priority of rights under this Act if the inspector or the Director is of the opinion that the issuance of the order will provide a remedy with respect to priority of rights;
- (b) to an approval holder, a preliminary certificate holder, a licensee, a registrant or an owner of a works,
 - (i) if, in the opinion of the inspector or Director, there has been a failure to maintain, repair, improve, alter or replace a works referred to in the approval, preliminary certificate, licence or registration, or
 - (ii) if all or part of the works referred to in the approval, preliminary certificate, licence or registration fails or collapses;
- (c) to any person responsible for
 - (i) a works that does not require an approval.
 - (ii) a diversion of water that does not require a licence or registration.

(iii) an activity that does not require an approval, or

(iv) a diversion for household purposes,

if, in the opinion of the inspector or Director, an adverse effect on the aquatic environment, safety, property or human health has occurred, is occurring or may occur;

(d) to any person holding a licence for the temporary diversion of water, if the inspector or Director is of the opinion that the diversion of water should be suspended;

(e) to any owner or occupier of land if on that land

(i) there is any dam constructed by beaver, or any natural or other obstruction, including but not limited to an obstruction formed by soil, debris, ice or vegetation, and in the opinion of the inspector or Director the dam or obstruction causes the diversion of or interferes with the flow of water, or

(ii) a flood, in the opinion of the inspector or Director, has occurred, is occurring or may occur;

(f) to a person responsible for an activity, diversion of water or operation of a works for the diversion of water, if the inspector or Director is of the opinion that the activity, diversion or operation of a works causes or may cause property damage or a significant adverse effect on the aquatic environment or human health.

(2) If the Director is of the opinion that water is not being conserved or that a person has wasted any water diverted under the authority of this Act, contrary to a water conservation guideline, the Director may issue to any person a water management order for conservation purposes.

(3) The Director may issue a water management order directed to the person responsible for a well in the following cases:

(a) with regard to a problem well, an order requiring

(i) that the well be reclaimed, or

(ii) that remedial action be taken with respect to the well

in accordance with the regulations;

(b) if the Director is of the opinion that any actions related to the drilling of a well may cause, are causing or have

caused an adverse effect on the aquatic environment or on safety, property or human health, an order

(i) specifying any action that must be taken to prevent, repair or remedy the adverse effect, and

(ii) ordering the modification, suspension or stopping of any of the actions.

(4) If the Director is of the opinion that any drilling of any kind that is prescribed in the regulations may cause, is causing or has caused an adverse effect on groundwater, the Director may issue a water management order directed to the person in charge of the drilling, as provided for in the regulations, directing either or both of the following:

(a) action that must be taken to prevent, repair or remedy the adverse effect;

(b) the modification, suspension or stopping of the drilling or any actions related to the drilling.

(5) If an inspector, or the Director is of the opinion that

(a) an immediate and significant adverse effect may occur, is occurring or has occurred due to a problem well or from any actions related to the drilling of a well, the inspector or Director may issue a water management order to the person responsible for the well directing the performance of emergency measures that the inspector or Director considers necessary, or

(b) any drilling referred to in subsection (4) may cause, is causing or has caused an immediate and significant adverse effect on groundwater, the inspector or Director may issue a water management order to the person in charge of the drilling, as provided for in the regulations, directing the performance of emergency measures that the inspector or Director considers necessary.

(6) An inspector may issue a water management order under subsection (1) or (5) only for a period of up to 4 days.

Order by
inspector

105 If an inspector issues a water management order, the inspector shall give a copy of it to the Director immediately after issuing it.

Terms of order

106(1) A water management order issued by the Director may

- (a) order the person to whom it is directed to take any measures that the Director considers necessary, including but not limited to any or all of the following:
 - (i) make any inquiries into the subject-matter of the order,
 - (ii) submit to the Director
 - (A) any information on the subject-matter of the order, or
 - (B) a proposal or plan for the Director's approval on any action, including but not limited to conducting an examination or survey of a water body that is to be undertaken with respect to the subject-matter of the order,
 - (iii) remove, breach, destroy or otherwise render ineffective
 - (A) a works placed or constructed without an approval,
 - (B) a works that is no longer required or for which an approval, registration or licence has been cancelled or is no longer in effect, or
 - (C) a natural or other obstruction to the diversion or flow of water caused in any manner,
 - (iv) maintain, repair, improve, alter, replace or remove a works,
 - (v) operate a works for a specified result or in a specified manner,
 - (vi) cease construction or operation of an activity or diversion of water for a specified period,
 - (vii) stop, shut down or suspend an activity, diversion of water or operation of a works or thing for a specified period,
 - (viii) minimize or remedy any adverse effects on the aquatic environment, safety, property or human health,
 - (ix) stop wasting water and comply with the water conservation guideline,

- (x) carry out any emergency measures that the inspector or Director considers necessary,
- (xi) restore or reclaim the area affected to a condition satisfactory to the Director,
- (xii) report on any matter ordered to be done in accordance with the directions set out in the order,
- (xiii) maintain records on any relevant matter,
- (xiv) report periodically to the Director, and
- (xv) take any other measure that the Director considers necessary,

and

(b) contain provisions specifying

- (i) how the order is to be carried out,
- (ii) the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with, and
- (iii) the apportionment of the costs of doing any of the work or carrying out any of the measures specified in the order among the persons to whom the order is directed and the Government.

(2) A water management order issued by an inspector under section 104 may contain any or all measures under subsection (1)(a)(v), (vi), (vii) and (x) and (b)(i) and (ii).

(3) If a water management order requires an approval holder, preliminary certificate holder, licensee or traditional agriculture user to carry out an activity or diversion of water that is not specified in or is contrary to the approval, preliminary certificate, licence or registration, the approval holder, preliminary certificate holder, licensee or traditional agriculture user is not in contravention of this Act.

Responsibility
to carry out
orders

107 If a water management order is directed to more than one person, all persons named in the order

- (a) are jointly responsible for carrying out the terms of the order, and

- (b) are jointly and severally liable for payment of the costs of doing so, including any costs incurred by the Director under section 111 unless there has been an apportionment of costs under section 106(1)(b)(iii).

Amendment
and
cancellation of
orders

108(1) The Director may on the Director's own initiative

- (a) amend a term or condition of,
- (b) cancel, or
- (c) amend a clerical error in,

a water management order issued by the Director or by an inspector.

(2) A copy of a water management order amended under subsection (1) notice must be given by the Director to the same person to whom the original order was directed.

Court order for
compliance

109(1) If the person to whom a water management order is directed fails to comply with the water management 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 water management order.

(2) This section applies whether or not a conviction has been adjudged against the person to whom the water management order is directed for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the water management order.

Director may
carry out order

110(1) If the person to whom a water management order is directed fails to comply with the order, the Director may take whatever action the Director considers necessary to carry out the terms of the order.

(2) Costs incurred by the Director under this section are recoverable by the Government

- (a) in an action in debt against the person to whom the water management order is directed, or
- (b) by order of the Minister directing any person who has acquired or purchased land from the person to whom the water management order is directed to pay to the

Government instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(3) For the purposes of this section the costs referred to in subsection (2) include, without limitation, any costs incurred in administering, investigating and responding to

(a) any matter to which the water management order relates, or

(b) any failure to comply with the water management order.

(4) A purchaser of land who pays an amount to the Minister under subsection (2)(b) is discharged from any obligation to pay that amount to the vendor.

Order where
person
unidentifiable

111(1) When this Act authorizes the issuance of a water management order but none of the persons to whom the order could be issued are identifiable, the Director may nevertheless issue the order and take whatever action the Director considers necessary to carry out the terms of the order.

(2) The costs of carrying out the terms of a water management order under this section are recoverable in accordance with section 110 against any person to whom the water management order referred to in subsection (1) could have been issued, if the identity of the person becomes known to the Director after the order is issued.

Division 3 Emergencies

Emergency
measures

112(1) If an inspector, investigator or the Director is of the opinion that an activity, diversion of water or operation of a works for the diversion of water

(a) occurs or may occur, and

(b) causes or may cause an immediate and significant adverse effect on the aquatic environment, safety, property or human health,

the inspector, investigator or Director may take any emergency measures that the inspector, investigator or Director considers necessary to prevent immediate and significant damage to the aquatic environment or to safety, property or human health.

(2) Subsection (1) applies whether or not the activity, diversion of water or operation is authorized by an approval, preliminary

certificate, licence or registration and whether or not the approval holder, preliminary certificate holder, licensee or traditional agriculture user is or was in compliance with the approval, preliminary certificate or licence and this Act.

(3) If an inspector or the Director is of the opinion that an immediate and significant adverse effect may occur, is occurring or has occurred due to a problem well or to any actions related to the drilling of a well, the inspector or Director may take any emergency measures the inspector or Director considers necessary to protect human life or health or the environment.

Recovery of
emergency
measures

113 The costs of carrying out emergency measures under section 112 are recoverable by the Government in an action in debt against the person, government of another jurisdiction or local authority that is responsible for the need to take the emergency measures.

Declaring an
emergency

114(1) Notwithstanding anything in this Act or any approval, preliminary certificate, licence or registration issued under this Act, the Lieutenant Governor in Council may declare an emergency.

(2) If an emergency has been declared under subsection (1), the Director may issue a water management order to any person

- (a) suspending the operation of all or part of any approval, preliminary certificate, licence or registration,
- (b) suspending any diversion of water,
- (c) designating the purposes for which, and volumes in which, water may be diverted or used, and
- (d) ordering or containing any of the measures or provisions under section 106,

with respect to the area of the Province affected by the emergency.

(3) Approval holders, preliminary certificate holders, licensees or registrants affected by an order under subsection (1) may be entitled to compensation, as specified by the Lieutenant Governor in Council, for any losses incurred as a result of the order.

PART 8

NOTICE

Notice of
applications

115(1) If the Director receives an application

- (a) for an approval,
- (b) for a licence,
- (c) for a renewal of a licence and the Director has decided to conduct a public review,
- (d) for an amendment of a term or condition of
 - (i) an approval,
 - (ii) a licence, or
 - (iii) a preliminary certificate,

or

- (e) for a transfer of an allocation of water,

the applicant shall provide notice of the application in accordance with the regulations.

(2) Notwithstanding subsection (1), an applicant is not required to provide notice with respect to making an application for

- (a) a licence for the temporary diversion of water;
- (b) an amendment
 - (i) to correct a clerical error,
 - (ii) to a monitoring, reporting or inspection requirement in an approval, preliminary certificate or licence, or
 - (iii) of an extension of the expiry date of an approval, preliminary certificate or licence,

unless required by the regulations;

- (c) the disposition of land or an undertaking to which an approval, preliminary certificate, licence or registration is appurtenant.

(3) Notwithstanding subsection (1), if the Director proposes to amend an approval, preliminary certificate or licence on the Director's own initiative, the Director, rather than the applicant, shall provide notice of the proposed amendment in accordance with the regulations.

(4) Notwithstanding subsection (1), if an applicant applies for and gives notice of an application for an approval and the applicant subsequently applies for an approval with respect to an undertaking related to the subject-matter of the original application, the Director may waive the requirement to provide notice of the subsequent application.

(5) Notwithstanding subsection (1), if notice has been provided under subsection (1)(e), notice does not have to be provided under subsection (1)(d) for any amendments made to a licence in order to give effect to the transfer of an allocation of water under a licence.

(6) Notwithstanding subsection (1), if the Director has received an application for

- (a) an approval,
- (b) a licence, or
- (c) an amendment of an approval, preliminary certificate or licence,

and the Director is of the opinion that

- (d) there is an emergency,
- (e) the activity or diversion of water specified in the application for the approval or licence or the proposed amendment results in a minimal or no adverse effect on the aquatic environment or on licensees, household users and traditional agriculture users, or
- (f) adequate notice of the subject-matter of the application or the proposed amendment has already been provided or given,

the Director may waive the notice requirement under subsection (1).

Statement of
concern

116(1) If notice is provided

- (a) under section 115(1), any person who is directly affected by the application or proposed amendment, and

- (b) under section 115(3), the approval holder, preliminary certificate holder, or licensee,

may submit to the Director a written statement of concern setting out that person's concerns with respect to the application or proposed amendment.

(2) A statement of concern must be submitted

- (a) in the case of an approval, within 7 days after the last providing of the notice, and
- (b) in every other case, within 30 days after the last providing of the notice,

or within any longer period specified by the Director in the notice.

Notice of
Director's
decision

117(1) If the Director issues or refuses to issue an approval or licence, or issues a preliminary certificate, the Director shall give notice to the applicant.

(2) If the Director amends or refuses to amend an approval, preliminary certificate or licence, the Director shall give notice of the amendment or refusal to the approval or preliminary certificate holder or licensee.

(3) If the Director suspends or cancels an approval or licence or cancels a preliminary certificate, the Director shall give notice of the suspension or cancellation to the approval holder, preliminary certificate holder or licensee.

(4) If the Director makes a decision that no further allocation of water should be made under section 55, the Director shall provide notice in accordance with the regulations.

(5) If the Director approves or refuses to approve a transfer of an allocation of water under section 87, the Director shall give notice of the approval or refusal to the applicant for the transfer.

(6) If an inspector or Director issues a water management order or the Director issues an enforcement order the inspector or Director shall give a copy of the order to the person directed in the order.

(7) If the Minister takes over a works or undertaking under section 96, the Director

- (a) shall give notice to the owner of the works or undertaking, and

- (b) if the works or undertaking is referred to in an approval, preliminary certificate or licence, shall give notice to the approval holder, preliminary certificate holder or licensee.

(8) If the Minister issues an order to use another person's works under section 54(3), the Minister must give notice of the order to the owner of the works.

(9) If the Minister takes over an interest or part of an interest in a licence or registration under section 175, the Minister shall give notice to the licensee or registrant.

Notice of
Director's
decision

118(1) If the Director

- (a) issues an approval,
- (b) issues a preliminary certificate,
- (c) issues a licence when a preliminary certificate has not been issued with respect to that licence, except for a licence to the Government implementing a water conservation objective or providing for or maintaining a rate of flow of water or water level requirement, or
- (d) amends an approval, preliminary certificate or licence,

the Director shall,

- (e) if notice of the application or proposed changes was waived by the Director under section 115(6), ensure that notice of the decision is provided to any directly affected person in accordance with the regulations, or
- (f) if notice of the application or proposed changes was provided under section 115, give notice or require the person to give notice of the decision in accordance with the regulations to every person who submitted a statement of concern under section 116.

(2) If a notice of an application was provided under section 115 and the Director refuses to

- (a) issue an approval or licence, or
- (b) amend an approval, preliminary certificate or licence,

the Director shall give notice of the refusal to any person who submitted a statement of concern in accordance with section 116.

(3) If the Director refuses to issue a licence implementing a water conservation objective to the Government, the Director shall provide notice of the refusal in accordance with the regulations.

(4) If the Director renews a licence and there has been a public review, the Director shall give notice of the renewal to any person who submitted a statement of concern under section 116.

(5) If the Director suspends or cancels an approval or licence or cancels a preliminary certificate, the Director shall provide notice of the suspension or cancellation in accordance with the regulations.

(6) If the Director approves or refuses to approve a transfer, the Director shall provide notice of approval or refusal to every person who submitted a statement of concern under section 116 in accordance with the regulations.

(7) In addition to notice specified in this section, the Director may also give notice to any other person the Director considers appropriate.

PART 9

APPEALS

Notice of
objection

119(1) A notice of objection under this Act may be submitted to the Environmental Appeal Board by the following persons in the following circumstances:

- (a) if the Director issues or amends an approval, a notice of objection may be submitted
 - (i) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 116, if notice of the application or proposed changes was previously provided under section 115, or
 - (ii) by any person who is directly affected by the Director's decision, if the Director waived the requirement to provide notice under section 115(6) and notice of the application was not provided;
- (b) if the Director issues or amends a preliminary certificate, a notice of objection may be submitted
 - (i) by the preliminary certificate holder or by any person who previously submitted a statement of concern in accordance with section 116, if notice of

the application or proposed changes was previously provided under section 115, or

- (ii) by the preliminary certificate holder or by any person who is directly affected by the Director's decision, if the Director waived the requirement to provide notice under section 115(6) and notice of the application was not provided;
- (c) if a preliminary certificate has not been issued with respect to a licence and the Director issues or amends a licence, a notice of objection may be submitted
 - (i) by the licensee or by any person who previously submitted a statement of concern in accordance with section 116, if notice of the application or proposed changes was previously provided under section 115, or
 - (ii) by the licensee or by any person who is directly affected by the Director's decision, if the Director waived the requirement to provide notice under section 115(6) and notice of the application or proposed changes was not provided;
- (d) subject to clause (e), if the Director refuses to issue an approval or licence, the applicant for the approval or licence may submit a notice of objection;
- (e) if the Director refuses to issue a licence to the Government for the purposes of implementing a water conservation objective or providing for or maintaining a rate of flow of water or water level requirement, the applicant for the licence and any directly affected person may submit a notice of objection;
- (f) if the Director refuses to amend an approval, preliminary certificate or licence, the applicant may submit a notice of objection;
- (g) if the Director suspends or cancels an approval, licence or registration or cancels a preliminary certificate, the approval holder, preliminary certificate holder, licensee or registrant may submit a notice of objection;
- (h) if the Director refuses to renew a licence, the licensee may submit a notice of objection;
- (i) if the Director renews a licence where there has been a public review, any person who previously submitted a

statement of concern in accordance with section 116 may submit a notice of objection;

- (j) if the Minister takes over any works or undertaking, the approval holder, preliminary certificate holder or licensee, or the owner of the works or undertaking, may submit a notice of objection;
- (k) if the Director gives notice that no further applications for licences will be accepted, a person who wishes to apply for a licence for any water that was the subject of the notice may submit a notice of objection;
- (l) if the Minister issues an order with respect to the use of another person's works under section 54(3), the owner of the works may submit a notice of objection;
- (m) if an inspector or the Director issues a water management order or an amendment of a water management order, except an order with respect to priority of rights under section 104(1)(a), the person to whom the order is directed may submit a notice of objection;
- (n) if an inspector or the Director issues a water management order or an amendment of a water management order with respect to priority of rights under section 104(1)(a), the person to whom the order is directed, or any person whose rights to divert water may be affected by the issuance of the order, may submit a notice of objection only with respect to who has priority;
- (o) a person who is entitled to divert water pursuant to section 24 and who is affected by a declaration by the Director that diversion of water cease may submit a notice of objection;
- (p) if the Director issues an enforcement order under section 137 directing
 - (i) the suspension or cancellation of an approval or licence or the cancellation of a preliminary certificate,
 - (ii) the stopping or shutting down of any activity, diversion of water, operation of works for the diversion of water or thing,
 - (iii) the ceasing of construction, operation, maintenance, repair, control, replacement or removal of any works or the carrying out of an undertaking, or

- (iv) the removal, breach, destruction or otherwise rendering ineffective of any works or obstruction,
- the person to whom the order is directed may submit a notice of objection;
- (q) if the Director requires a person to pay an administrative penalty under section 157, the person to whom the notice of the administrative penalty is directed may submit a notice of objection;
 - (r) if the Director approves or refuses a request for a transfer under section 87, the applicant and any person who submitted a statement of concern under section 116 may submit a notice of objection;
 - (s) a licensee or registrant whose licence or registration is affected by a purchase or takeover under section 171.
- (2) Notwithstanding subsection (1), a notice of objection may not be submitted
- (a) if, pursuant to an order of the Minister under section 39, 56, 71 or 88, the Director
 - (i) refuses to issue an approval, preliminary certificate or licence, or
 - (ii) refuses to approve a transfer of an allocation of water under a licence;
 - (b) with respect to any matter relating to a licence for the temporary diversion of water;
 - (c) with respect to an amendment
 - (i) to correct a clerical error,
 - (ii) of a monitoring, reporting or inspection requirement in an approval, preliminary certificate or licence, or
 - (iii) of an extension of the expiry date of an approval, preliminary certificate or licence;
 - (d) if there is an amendment as a result of a disposition of land or an undertaking to which an approval, registration, licence or preliminary certificate is appurtenant.

Submission of
notice of
objection

120(1) A notice of objection must be submitted to the Environmental Appeal Board

(a) not later than 7 days after

(i) receipt of a copy of the water management order or enforcement order, or

(ii) in the case of an approval, receipt of notice of the decision objected to or the last provision of notice of the decision objected to,

or

(b) in any other case, not later than 30 days after receipt of notice of the decision objected to or the last provision of notice of the decision objected to.

(2) The Environmental Appeal Board may, on application made before or after the expiry of the period referred to in subsection (1), extend that period, if the Board is of the opinion that there are sufficient grounds to do so.

(3) A notice of objection must contain the information and be made in the manner provided for in the regulations.

Exemption
from
compensation

121 If an inspector or the Director issues a water management order with respect to the administration of priority of water rights, and that order or part of the order is successfully appealed by any person, no compensation shall be paid with respect to any impact on or losses incurred with respect to any person's priority of water rights as a result of the issuance or appeal of the water management order.

PART 10

ENFORCEMENT

Division 1 Inspection

Inspector
identification

122(1) The Director shall furnish an inspector with an identification card in accordance with the regulations and on entering any place pursuant to this Part the inspector shall, on request,

(a) produce the identification card, and

- (b) identify and explain the nature of the powers or duties that the inspector wishes to carry out under this Act.

(2) A person authorized in writing by the Director, on entering any place pursuant to the authorization, shall on request

- (a) produce a copy of the written authorization, and
- (b) identify and explain the nature of the powers and duties that the person wishes to carry out.

Right of entry
by inspector
and others

123(1) An inspector or any person authorized in writing by the Director may enter any place or gain access to any place, other than a private dwelling place, for the purpose of ensuring compliance with this Act or any order made under this Act, and carrying out any work or doing any other thing that the inspector is authorized under this Act to carry out or do, including but not limited to any of the following:

- (a) enter on and pass over land to inspect any place, other than a private dwelling, in which the inspector or authorized person believes, on reasonable grounds, that
 - (i) there is a works,
 - (ii) an undertaking is or has been carried out,
 - (iii) an activity or diversion of water is being or has been carried out, or
 - (iv) there is or may be an obstruction that interferes with a diversion or with a flow of water or that is or is required to be the subject of or referred to in an approval, preliminary certificate, licence, registration, certificate of completion, water management order or enforcement order;
- (b) to enter on and pass over land to inspect any place, other than a private dwelling, that the inspector or authorized person believes, on reasonable grounds, is relevant to any complaint made with respect to this Act;
- (c) to enter on and pass over land to inspect any place, other than a private dwelling, that the inspector or authorized person believes, on reasonable grounds, is likely to contain documents related to an activity, operation of a works for the diversion of water, diversion of water, or to contain any thing that is or is required to be the subject of an approval, preliminary certificate, licence, certificate of completion, registration, water management order or enforcement order.

(2) If a water management order or an enforcement order orders the person to whom it is directed to carry out any work or do any thing in respect of a place, that person and any other person carrying out the work or doing the thing on that person's behalf may enter the place, other than a private dwelling place, for the purpose of carrying out the work or doing the thing required by the order.

(3) A person entering any place under this section

- (a) shall do so at a reasonable time,
- (b) shall give reasonable prior notice of intention to enter the place to the occupant of the place or, if there is no occupant, to the owner if it is practicable in the circumstances to do so, and
- (c) may, notwithstanding subsections (1) and (2), enter a private dwelling place or a place that is used as a permanent or temporary dwelling place
 - (i) with the consent of the occupant of the place, or
 - (ii) under the authority of an order of a justice to enter and inspect.

Inspections

124(1) In the course of exercising powers under section 123, an inspector or person authorized in writing by the Director may do any or all of the following:

- (a) require that any thing be operated, used or set in motion or require that any thing cease operation under conditions specified by the inspector or person authorized in writing by the Director;
- (b) use or move any machine, structure, material or equipment in the place the inspector or person authorized in writing by the Director is inspecting in order to carry out the inspection;
- (c) take samples of any substance or thing;
- (d) conduct tests or take measurements;
- (e) require the production of any information, records and reports that are required to be kept or submitted under this Act or any other documents that are related to the purpose for which the inspector or authorized person is exercising any power under section 123;

- (f) make copies of or take extracts from any information, records, reports and documents referred to in clause (e);
- (g) use any computer system at any place to examine any data contained in or available by means of the computer system;
- (h) record or copy, by any method, any information related to the administration of this Act;
- (i) examine, reproduce and take any record from data, related to the administration of this Act, in the form of a printout or other output;
- (j) use copying equipment to make copies and take any photographs or electronic or audio-video records of anything related to the administration of this Act;
- (k) make reasonable inquiries of any person, orally or in writing;
- (l) initiate any other action that is necessary to carry out the inspection.

(2) An inspector and a person authorized in writing by the Director may remove data, records, reports and documents that they are entitled to examine or copy or otherwise reproduce but shall give a receipt for them to the person from whom they were taken and shall return them within a reasonable time.

Seizure

125 An inspector may, without an order of a justice or a search warrant, seize any thing that is produced to the inspector that is in plain view, during an inspection under this Division or in accordance with an order of a justice issued under this Division if the inspector, on reasonable grounds, believes that there has been an offence committed under this Act and that the thing will provide evidence of the offence.

(2) The inspector may remove the thing seized or may retain it in the place where it is seized.

(3) An inspector shall not exercise any powers under this section if the inspector has reasonable grounds to believe an offence was committed under this Act prior to the inspector entering the place, and the purpose of the entry was to secure evidence as to the commission of the offence.

(4) An inspector shall, on seizing any thing under this section give a receipt for it to the person, if any, having physical possession of it when it was seized and furnish a justice with an affidavit

- (a) stating the reason for the belief that the thing seized will provide evidence with respect to an offence under this Act,
- (b) setting out the name of the person, if any, having physical possession of the thing seized at the time it was seized, and
- (c) describing the disposition of the thing seized.

Production of documents

126(1) For the purpose of ensuring that this Act and anything issued under this Act are complied with, an inspector may demand the production, within a reasonable time, of any record or document pertaining in any manner to compliance with this Act or anything issued under this Act and may on giving a receipt for it remove for the purpose of making copies of it and return it within a reasonable time.

(2) If a person on whom a demand is made under subsection (1) refuses or fails to comply, the inspector may apply to a judge of the Court of Queen's Bench by way of originating notice and the judge may make any order that the judge considers necessary to enforce compliance with subsection (1).

(3) A copy of the originating notice and a copy of each affidavit in support shall be served not less than 3 days before the day named in the notice for hearing the application.

Assistance to inspectors, etc.

127 The owner of and every person found in any place in respect of which an inspector or person authorized in writing by the Director is exercising powers or carrying out duties under this Act shall

- (a) give the inspector or person authorized in writing by the Director all reasonable assistance to enable the inspector or person to exercise those powers and carry out those duties, and
- (b) furnish all information relative to the exercising of those powers and the carrying out of those duties that the inspector or person may reasonably require.

Order to enter

128(1) If a justice is satisfied on evidence under oath that an inspector or person authorized in writing by the Director has been prevented from entering a place or has been denied access to a place that the inspector or person is authorized in writing by the Director to enter under section 123, the justice may issue an order authorizing that inspector or person authorized in writing by the Director to enter the place for the purposes of carrying out an

inspection or work or doing anything that the inspector or person authorized in writing by the Director is directed to carry out or do.

(2) If a justice is satisfied on evidence under oath by an inspector

(a) that there is reasonable ground for believing that it is appropriate for ensuring compliance with this Act for the inspector to do anything set out in section 123 or 124, and

(b) that the inspector may not be able to carry out duties effectively under this Act without an order because

(i) no person is present to grant access to a place that is locked or is otherwise inaccessible,

(ii) a person has denied the inspector access to a place or there is reasonable ground for believing that a person may deny the inspector access to a place,

(iii) a person has prevented the inspector from doing anything set out in section 123 or 124 or denied the inspector access to any thing as a result of which the inspector is unable to do anything set out in section 123 or 124,

(iv) there is reasonable ground for believing that a person may prevent an inspector from doing anything set out in section 123 or 124, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in section 123 or 124,

(v) the place to be inspected is remote or for any other reason and access is required as soon as possible, or

(vi) there is reasonable ground for believing that an attempt by the inspector to do anything set out in section 123 or 124 without the order might defeat the purpose of that section or endanger human life, health or the aquatic environment,

the justice may issue an order to enter and inspect authorizing the inspector to do anything set out in section 123 or 124 that is specified in the order for the period of time set out in the order.

(3) The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods each of which is not more than 30 days.

(4) An application under subsection (3) may be made before or after the expiry of the period.

(5) An order under this section may be issued or renewed on application without notice.

Assistance by
peace officer

129 An inspector may be accompanied by a peace officer while exercising powers or carrying out duties under this Part.

Division 2 Investigations

Investigator
identification
card

130(1) The Director shall furnish an investigator with an identification card and on entering any place, pursuant to this Act, the investigator shall, on request,

- (a) produce the identification card, and
- (b) identify and explain the nature of the powers or duties the investigator wishes to carry out under this Act.

(2) A person authorized under section 131(2), on entering any place pursuant to this Part shall, on request, identify and explain the nature of the powers and duties that the person wishes to carry out.

Right of entry
by investigator

131(1) An investigator may enter any place or gain access to any place for the purpose of responding to a complaint or conducting an investigation under this Act.

(2) Any person who

- (a) an investigator considers necessary to enable the investigator to respond to a complaint or conduct an investigation under this Act, and
- (b) has been authorized by the investigator to enter a place,

may enter that place with or without being accompanied by the investigator.

(3) An investigator or person entering any place under the authority of this section

- (a) shall do so at a reasonable time unless authorized otherwise in a search warrant,

- (b) shall give reasonable prior notice of intention to enter the place to the occupant of the place or, if there is no occupant, to the owner if it is practicable in the circumstances to do so, and
- (c) may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary dwelling place except
 - (i) with the consent of the occupant of the place, or
 - (ii) under the authority of a search warrant.

Investigations **132**(1) An investigator has all the powers and is subject to all of the duties of an inspector under section 123, if the investigator

- (a) is acting with respect to a complaint made under this Act, or
- (b) the investigator has reasonable grounds to believe that
 - (i) an offence has been committed under this Act, and
 - (ii) there is in a place any thing that will afford evidence as to the commission of an offence.

(2) An investigator who makes any reasonable inquiries of any person, orally or in writing under section 124, may exclude the presence of any person during the questioning of the individual except for counsel for the individual being questioned.

(3) Subject to subsection (1), an investigator has the powers and duties of an inspector under sections 123, 125 and 127.

Assistance by peace officer **133** An investigator may be accompanied by a peace officer while exercising powers or carrying out duties under this Part.

Tele-warrants **134**(1) If an investigator has reasonable grounds to believe that

- (a) an offence has been committed under this Act,
- (b) there is in a place any thing that will afford evidence as to the commission of the offence, and
- (c) it would be impracticable to appear personally before a justice to make an application for a search warrant,

the investigator may submit an information on oath to a justice by telephone or other means of communication.

(2) An information submitted by telephone or other means of telecommunication shall be on oath and shall be recorded verbatim by the justice, who shall, as soon as practicable, cause to be filed with the clerk of the provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution, the record or a transcription of the record certified by the justice as to time, date and contents.

(3) For the purposes of subsection (2), an oath may be administered by telephone or other means of telecommunication.

(4) An information on oath submitted by telephone or other means of telecommunication shall include

- (a) a statement of the circumstances that make it impracticable for the investigator to appear personally before a justice,
- (b) a statement of the alleged offence, the place to be searched and the things alleged to be liable to seizure,
- (c) a statement of the investigator's grounds for believing that things liable to seizure in respect of the alleged offence will be found in the place to be searched, and
- (d) a statement as to any prior application for a tele-warrant under this section or any other search warrant in respect of the same matter of which the investigator has knowledge.

(5) A justice who is satisfied that an information on oath submitted by telephone or other means of telecommunication

- (a) is in respect of an offence committed under this Act and conforms to the requirements of subsection (4),
- (b) discloses reasonable ground for dispensing with an information presented personally and in writing, and
- (c) discloses reasonable ground for the issuance of a search warrant in respect of the offence,

may issue a tele-warrant to an investigator conferring the same authority respecting search and seizure as may be conferred by a search warrant issued by a justice before whom the investigator appears personally, and may require that the tele-warrant be executed within such time period as the justice may order.

(6) If a justice issues a tele-warrant under subsection (5),

- (a) the justice shall complete and sign the tele-warrant in the form prescribed in the regulations, noting on its face the time, date and place of issuance,
 - (b) the investigator, on the direction of the justice, shall complete, in duplicate, a facsimile of the tele-warrant in the form prescribed in the regulations, noting on its face the name of the issuing justice and the time, date and place of issuance, and
 - (c) the justice shall, as soon as practicable after the tele-warrant has been issued, cause the tele-warrant to be filed with the clerk of the Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution.
- (7) An investigator who executes a tele-warrant issued under subsection (5) shall, before entering the place to be searched, or as soon as is practicable thereafter, give a facsimile of the tele-warrant to any person present and ostensibly in control of the place.
- (8) An investigator who, in any unoccupied place, executes a tele-warrant issued under subsection (5), shall on entering the place or as soon as is practicable thereafter cause a facsimile of the tele-warrant to be suitably affixed in a prominent place within the place.
- (9) An investigator to whom a tele-warrant is issued under subsection (5) shall file a written report with the clerk of the Provincial Court of Alberta nearest to the area in which the tele-warrant was intended for execution as soon as is practicable but within a period not exceeding 7 days after the tele-warrant has been executed, which report shall include
- (a) a statement of the time and date the tele-warrant was executed, or if the tele-warrant was not executed, a statement of the reasons why it was not executed,
 - (b) a statement of the things, if any, that were seized pursuant to the tele-warrant and the location where they are being held, and
 - (c) a statement of the things if any, that were seized in addition to the things mentioned in the tele-warrant and the location where they are being held, together with a statement of the investigator's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence.
- (10) The clerk of the Provincial Court of Alberta with whom a written report is filed pursuant to subsection (9) shall, as soon as is

practicable, cause the report, together with the information on oath and the tele-warrant to which it pertains, to be brought before a justice to be dealt with in respect of any thing that was seized and is referred to in the report, in the same manner as if the things were seized pursuant to a search warrant issued by a justice on an information presented personally by an investigator.

(11) In any proceeding in which it is material for a court to be satisfied that a search or seizure was authorized by a tele-warrant under subsection (5), the absence of the information on oath, transcribed and certified by the justice as to the time, date and contents, or of the original tele-warrant, signed by the justice and carrying on its face a notation of the time, date and place of issuance, is, in the absence of evidence to the contrary, proof that the search or seizure was not authorized by a tele-warrant issued under subsection (5).

Seizure of
evidence

135(1) An investigator may

- (a) on obtaining a warrant, or
- (b) without a warrant if the investigator believes on reasonable and probable grounds that it is not practical to obtain a warrant because the necessary delay may result in the loss of evidence,

seize for the purposes of evidence anything that the investigator discovers during an inspection that the investigator believes on reasonable and probable grounds may provide evidence of the commission of an offence under this Act.

(2) An investigator shall, on seizing anything under subsection (1), give a receipt for it to the person having physical possession of it when it was seized and furnish a justice with an affidavit

- (a) stating that the investigator has reason to believe that an offence has been committed in respect of the thing seized.
- (b) setting out the name of the person, if any, having physical possession of the thing seized at the time it was seized, and
- (c) describing the disposition of the thing seized.

(3) A person may make an application to a justice for an order respecting the disposition of anything seized under subsection (1), and the justice shall

- (a) order that the application be stayed and be dealt with pursuant to section 156, or

(b) if section 156 is not applicable, make an order that the thing seized

(i) be confiscated to the Government, or

(ii) be returned to the person who is entitled to it.

Duty to stop a vehicle or vessel

136(1) An investigator may stop any vehicle or vessel that the investigator reasonably believes is being used in the commission of an offence under this Act.

(2) The operator of a vehicle or vessel shall stop the vehicle or vessel when required to do so by an investigator who is readily identifiable as such.

Division 3 Enforcement Orders

Issuing an enforcement order

137(1) The Director may issue an enforcement order to any person if in the Director's opinion that person has contravened this Act, whether or not that person has been charged or convicted in respect of the contravention.

(2) Notwithstanding subsection (1), an enforcement order under this section does not apply to an offence under section 148(1)(h), (j), (n) or (o).

Terms of an order

138(1) In an enforcement order, the Director may order any or all of the following:

(a) the suspension or cancellation of an approval, licence or registration or the cancellation of a preliminary certificate where one or more of the criteria specified under section 44, 58, 75 or 81 have been met;

(b) the stopping or shutting down of any activity, diversion of water, operation of works for the diversion of water or thing either permanently or for a specified period if one or more of the criteria specified under section 44, 58, 75 or 81 have been met;

(c) the ceasing of construction, operation, maintenance, repair, control, replacement or removal of any works or the carrying out of an undertaking until the Director is satisfied that the construction, operation, maintenance, repair, control, replacement or removal or the carrying out of the undertaking will be done in accordance with this Act;

- (d) the submission to the Director, for the Director's approval, of a proposal or plan to be undertaken by the person in order to remedy the contravention;
 - (e) the removal, replacement, breach, destruction or otherwise rendering ineffective of
 - (i) a works placed or constructed without approval,
 - (ii) a works that is no longer required or for which an approval or licence has been cancelled or is no longer in effect, or
 - (iii) an obstruction to the flow of water caused in any manner;
 - (f) the repair of a works in order to protect public health or safety or property;
 - (g) the minimization or remedying of any adverse effects on
 - (i) the aquatic environment, or
 - (ii) human health or safety or property;
 - (h) the operation of any works in a specified manner or in order to achieve a specified result;
 - (i) the restoration or reclamation of the area affected to a condition satisfactory to the Director;
 - (j) how an order is to be carried out;
 - (k) the reporting on any matter that the order requires to be carried out;
 - (l) the maintenance of records on any relevant matter;
 - (m) the reporting periodically to the Director;
 - (n) the specification of the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with;
 - (o) the taking of any other measure that the Director considers necessary to facilitate compliance with the order or this Act.
- (2) If an enforcement order requires an approval holder, preliminary certificate holder, traditional agriculture user or licensee

to carry out an activity or diversion of water that is not specified in or is contrary to the approval, registration, preliminary certificate or licence, the approval holder, preliminary certificate holder, traditional agriculture user or licensee is not in violation of this Act by reason only of complying with the order.

Amendment,
cancellation of
order

139(1) The Director may on the Director's own initiative

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

(2) A copy of an amendment made under subsection (1) must be given to the same person to whom the original order was directed.

Court order for
compliance

140(1) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Director may apply to the Court of Queen's Bench for an order of the Court directing that person to comply with the enforcement order.

(2) This section applies whether or not a conviction has been adjudged against the person to whom the enforcement order is directed, for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the enforcement order.

Director may
carry out order

141(1) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Director may take whatever action the Director considers necessary to carry out the terms of the enforcement order.

(2) This section applies whether or not a conviction has been adjudged against the person to whom the enforcement order is directed, for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the enforcement order.

(3) Costs incurred by the Director 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 acquired or purchased land or a licence from the person to whom the enforcement order was directed to pay to the

Government instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(4) For the purposes of this section the costs referred to in subsection (3) include without limitation any costs incurred in investigating and responding to

(a) any matter to which the enforcement order relates, or

(b) the failure to comply with the enforcement order.

Liability for
order being
carried out

142 If an enforcement order is issued to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs of doing so, including any costs incurred by the Director under section 141.

Division 4 Civil Remedies

Other civil
remedies not
affected

143 Subject to section 158, no civil remedy for an act or omission is suspended or affected by reason only that the act or omission is an offence under this Act or gives rise to a civil remedy under this Act, and nothing in this Act shall be construed so as to repeal, remove or reduce any remedy available to any person at common law or under any Act of Parliament or of a provincial legislature.

Injunction re
commission of
offence

144(1) If on the application of the Director, it appears to the Court of Queen's Bench that a person has done, is doing or is about to do any act or any thing constituting or directed toward the commission of an offence under this Act, the Court may issue an injunction ordering any person named in the application

(a) to refrain from doing that act or thing, or

(b) to do any act or thing that it appears to the Court may prevent the commission of an offence under this Act.

(2) At least 48 hours' notice of the application must be given to the party or parties named in the application unless the Court is of the opinion that the urgency of the situation is such that giving notice would not be in the public interest.

Recovery of
costs by
Government

145 The Government may recover, in an action in debt against any person who is convicted of an offence under this Act, the costs incurred by the Government

- (a) in administering, investigating and responding to any matter related to the offence, or
- (b) in carrying out or causing to be carried out any preventive or remedial action made necessary by the act or omission that constituted the offence.

Injunction re
loss or
damage

146 Any person who has suffered, is suffering or is about to suffer loss or damage as a result of conduct that is contrary to this Act may apply to the Court of Queen's Bench for an injunction ordering the person engaged in the conduct to

- (a) refrain from doing any act that it appears to the Court causes or will cause the loss or damage, or
- (b) do any act or thing that it appears to the Court prevents or will prevent the loss or damage.

Division 5 Offences and Penalties

Limitation
period

147 A prosecution for an offence under this Act may not be commenced more than 2 years after the later of

- (a) the date on which the offence was committed, or
- (b) the date on which evidence of the offence first came to the attention of the Director.

Offences

148(1) A person who

- (a) provides false or misleading information pursuant to a requirement under this Act to provide information;
- (b) fails to provide information as required under this Act;
- (c) contravenes a water management order;
- (d) contravenes an enforcement order;
- (e) contravenes a term or condition of the approval, preliminary certificate or licence;

- (f) contravenes an order under section 114;
- (g) if required to provide notice under section 118(1)(f), fails to do so;
- (h) makes a false or misleading statement in response to inquiries under section 124(1)(k);
- (i) contravenes section 36(1);
- (j) contravenes section 40;
- (k) contravenes section 41(1);
- (l) contravenes section 41(2);
- (m) contravenes section 51(1);
- (n) contravenes section 68;
- (o) contravenes an order under section 99(1)(a);
- (p) contravenes section 115(1);
- (q) contravenes section 127;

is guilty of an offence.

(2) A person who knowingly

- (a) provides false or misleading information pursuant to a requirement under this Act to provide information;
- (b) fails to provide information as required under this Act;
- (c) contravenes a water management order;
- (d) contravenes an enforcement order;
- (e) commences or continues a diversion of water for any purpose, or operates a works for the diversion of water except under the authority of this Act;
- (f) commences or continues an activity except under the authority of this Act;
- (g) contravenes section 41(1);
- (h) contravenes section 51(1);

is guilty of an offence.

(3) An approval holder, preliminary certificate holder or licensee who fails to keep works to which the approval, preliminary certificate or licence applies in a proper or safe condition is guilty of an offence.

Penalties

149(1) A person who is guilty of an offence under section 148(1)(e) or section 148(2)(a), (b), (c), (d), (e), (f), (g) or (h) is guilty of an offence and liable

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

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

(2) A person who is guilty of an offence under section 148(1)(a), (b), (c), (d), (f), (h), (i), (k), (l), (m), (p) or (q) is guilty of an offence and is liable

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

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

(3) A person who is guilty of an offence under section 148(1)(g), (j), (n) or (o) is guilty of an offence and is liable

(a) in the case of an individual, to a fine of not more than \$250, or

(b) in the case of a corporation, to a fine of not more than \$1000.

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

**Additional fine
if monetary
benefits
acquired**

150 If a person is convicted of an offence under this Act and the Court is satisfied that as a result of the commission of the offence monetary benefits accrued to the offender, the Court may order the offender to pay, in addition to a fine under section 149, a fine in an amount equal to the Court's estimation of the amount of those monetary benefits.

Continuing
offences

151 Every person who is guilty of an offence under this Act is liable on conviction for each day or part of a day on which the offence occurs or continues.

Liability of
directors and
officers

152 If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

Liability of
public officials

153(1) If a person who is acting under the direction of

- (a) a Minister of the Government,
- (b) an official of the Government or a government agency, or
- (c) a member of a council, the chief administrative officer, a designated officer or a director of a local authority,

commits an offence under this Act, the Minister, official, member of council, chief administrative officer, designated officer or Director is also guilty of the offence and is liable to the penalty provided for the offence if he knew or ought reasonably to have known of the circumstances that constituted the commission of the offence and had the influence or control to prevent its commission, whether or not the other person has been prosecuted for or convicted of the offence.

(2) No person shall be convicted of an offence by reason of the operation of subsection (1) if it is established on a balance of probabilities that the person took all reasonable steps to prevent the commission of the offence by the other person referred to in subsection (1).

Court orders
relating to
penalty

154(1) When a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed under this Act, the Court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;
- (b) directing the offender to take any action the court considers appropriate to remedy or prevent any harm to the aquatic environment that results or may result from the act or omission that constituted the offence;

- (c) directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;
 - (d) directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the conviction, in the prescribed manner and at the offender's cost;
 - (e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;
 - (f) on application to the court by the Minister made within 3 years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;
 - (g) directing the offender to compensate the Government, in whole or in part, for the cost of any remedial or preventive action that was carried out by the Government or caused by the offender to be carried out by the Government and that was made necessary by the act or omission that constituted the offence;
 - (h) directing the offender to perform community service;
 - (i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.
- (2) If an offender contravenes an order made under subsection (1)(c), the Minister may publish the facts in compliance with the order.
- (3) If the Court makes an order under subsection (1)(g) or the Minister incurs publication costs under subsection (2), the costs constitute a debt to the Government.
- (4) An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order, not to exceed 3 years.

Variation of
court orders

155(1) Subject to subsection (2), where a Court has made an order under section 146, the Court may, on application by the offender or the Minister of Justice and Attorney General, require the offender to appear before it and, after hearing the offender and the Minister of Justice and Attorney General, may make any or all of the following orders if it considers that the circumstances of the offender have changed so as to warrant such an order:

- (a) an order changing the original order or the conditions specified in it;
- (b) an order relieving the offender absolutely or partially from compliance with any or all of the original order;
- (c) an order reducing the period for which the original order is to remain in effect;
- (d) an order extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

(2) Before making an order under subsection (1), the Court may direct that notice be given to any persons the Court considers to be interested, and the Court may hear any of those persons.

(3) If an application made under this section in respect of an offender has been heard by the Court, no other application under this section may be made with respect to the offender except with leave of the Court.

Disposal of
things seized

156(1) If a person is convicted of an offence under this Act and a thing relating to the conviction that was seized under this Part is then being detained, the thing shall, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings,

- (a) be forfeited to the Government, if the Court so directs, or
- (b) be restored to the person from whom it was seized or to any other person who is entitled to possession of it, subject to any terms and conditions imposed by the Court.

(2) If a thing is forfeited under subsection (1)(a),

- (a) the Minister may dispose of or destroy the thing, and
- (b) the costs of the forfeiture and disposal or destruction are recoverable from the offender.

Administrative
penalties

157(1) If the Director is of the opinion that a person has contravened a provision of this Act that is specified for the purposes of this section in the regulations, the Director may, subject to the regulations, by notice in writing given to that person, require that person to pay to the Government an administrative penalty in the amount set out in the notice for each day or part of a day the contravention occurs or continues.

(2) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

(3) If a person fails to pay an administrative penalty in accordance with a notice under subsection (1) or a decision of the Environmental Appeal Board under section 90 of the *Environmental Protection and Enhancement Act*, the amount of the penalty is a debt due to the Government.

Division 6 Civil Liability

Liability
exemption

158 No action for damages may be commenced against

- (a) a person who is an employee or agent of or is under contract to the Government or a government agency,
- (b) an inspector, investigator or Director,
- (c) a person authorized in writing by the Director as a representative of the Director or a person authorized by a Director or investigator,
- (d) a person directed in a water management order or enforcement order,
- (e) a person who is an employee of the Government, a Government agency, a local authority or the Government of Canada or any agency of that Government, where there has been a delegation under section 159,
- (f) a person who is an employee or agent of, or is under contract to, the Government, a Government agency or a local authority where there has been a transfer of administration under section 160, or
- (g) a member of the Environmental Appeal Board,

for anything done or not done by that inspector, investigator, Director or person in good faith while carrying out their duties or

exercising powers under this Act including, without limitation any failure to do something when that inspector, investigator, Director or person has discretionary authority to do something but does not do it.

PART 11

ADMINISTRATIVE MATTERS

Delegation **159(1)** The Minister may in writing delegate to any employee of

- (a) the Government or a Government agency, or
- (b) a local authority,

any power or duty conferred or imposed on the Minister under this Act.

(2) Subsection (1) does not apply to the power to make regulations.

(3) Before making a delegation under subsection (1), the Minister shall obtain the consent of the appropriate Minister under whose administration the employee is employed, or of the local authority.

(4) The Minister may revoke a delegation under subsection (1) if the Minister considers it appropriate to do so.

Transfer of administration **160(1)** The Minister may, by written agreement or by regulation, and with the consent of the other minister of the Government department or of the agency or local authority, transfer the administration of a provision of this Act to

- (a) another minister of the Government,
- (b) a Government agency or another Government department, or
- (c) a local authority,

and may specify the terms and conditions under which and subject to which the transfer is made.

(2) If the administration of a provision of this Act has been transferred under subsection (1) and in the Minister's opinion the other minister, the Government agency or the local authority is not properly administering the provision, the Minister may, after serving written notice on the other minister, the Government agency

or the local authority, cause inspectors designated by the Minister to carry out the provision.

(3) The Minister may take any steps that are necessary to revoke a transfer of administration under subsection (1) if the Minister considers it appropriate to do so.

Designation of
officials

161(1) The Minister may by order designate employees of the Government under the administration of the Minister as Directors for the purposes of all or a part of this Act.

(2) The Minister may, with respect to any Director, and a Director may, with respect to himself, designate any employee of the Government under the administration of the Minister as an acting Director to act in that Director's place in the event of the Director's absence or inability to act, and may specify any limitations on the scope of the designation.

(3) The Minister may by order designate as an inspector or investigator for the purposes of this Act any person who in the opinion of the Minister is qualified to be so designated.

(4) The Minister may not designate a person under subsection (2) or (3) without the approval of that person's principal or employer.

(5) A designation under subsection (3) may direct that the authority of the inspector or investigator be exercised subject to any terms and conditions that the Minister prescribes in the designation, including limitations on the scope of the designation.

Fund

162 All money deposited with the Government as security in respect of security required to be provided under section 45 or 60 shall be paid into the Environmental Protection Security Fund under section 30 of the *Environmental Protection and Enhancement Act*.

Vicarious
responsibility

163 For the purposes of this Act, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of employment for the corporation or in exercising powers or performing duties on behalf of the corporation is deemed also to be an act or thing done or omitted to be done by the corporation.

Inspector's
report

164 If the Director has required an inspection of any works to be made, the report and finding of an inspector as to the capacity of the works for the purposes of this Act is final and conclusive.

Documents as
evidence

165(1) In any proceeding under this Act, the following shall be admitted in evidence as prima facie proof of the contents of the certificate, report or statement, without proof of the signature or official character of the person signing the certificate, report or statement:

- (a) an analyst's certificate or an analyst's report of the results of an analysis purporting to be signed by an analyst,
- (b) a certificate purporting to be signed by a person authorized to issue an approval, a preliminary certificate or a licence or to effect a registration stating that on a specified day or during a specified period, a person named in the certificate was or was not the holder of an approval, preliminary certificate or licence or was or was not the registrant,
- (c) a certificate setting out with reasonable particularity the conviction and sentence of a person for an offence under this Act purporting to be signed by
 - (i) the person who entered the conviction, or
 - (ii) the clerk of the court in which the conviction was entered,

and

- (d) a statement purporting to be signed by the Director setting out the day on which the Director became aware of the subject-matter of any proceedings.

(2) A notice, approval, preliminary certificate, licence, registration document, water management order, enforcement order, consent or other order purporting to be signed by the person authorized to issue, make or give it is admissible in evidence without proof of the signature or official character of the person signing it.

Notice of
analyst's
certificate

166(1) No certificate or report of an analyst may be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate or report.

(2) The party against whom a certificate or report of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination.

Giving notice	<p>167(1) If a notice, request, order, direction or other document is required to be given under this Act, it is deemed to be sufficiently given if a copy of it is</p> <ul style="list-style-type: none"> (a) personally given to the person to whom it is directed, (b) sent by mail addressed to the person to whom it is directed at the last known address for that person, (c) sent by means of a telecopier and received and printed by the receiving telecopier at the last known address for the person to whom it is directed, or (d) in the case of a registered owner of land, sent by mail to the address for the registered owner shown on the assessment roll. <p>(2) For the purposes of this section, “telecopier” means a machine or device that electronically transmits a copy of a document, picture or other printed material by means of a telecommunication system.</p>
Reports	<p>168(1) An approval holder, or holder of a preliminary certificate or the holder’s administrator, receiver, receiver manager or trustee shall submit information, records and reports to the Director</p> <ul style="list-style-type: none"> (a) on the request of the Director; (b) in accordance with the terms and conditions of the approval, licence or preliminary certificate; (c) in accordance with the regulations. <p>(2) A traditional agriculture user or the user’s administrator, receiver, receiver manager or trustee shall submit information, records and reports to the Director</p> <ul style="list-style-type: none"> (a) on the request of the Director; (b) in accordance with the regulations.
Compensation	<p>169 If the Director</p> <ul style="list-style-type: none"> (a) under section 57(1)(b)(v) or 58(1)(i), amends, suspends or cancels a licence deemed to be issued under this Act, (b) suspends or cancels a registration under section 81(1)(g), or

- (c) issues a water management order under section 104(1)(f) with respect to a licence deemed to be issued under this Act,

the Minister shall pay compensation to the licensee or registrant for any losses incurred by them as a result of the amendment, suspension, cancellation or water management order, in the manner and amount that the Minister considers appropriate.

Expropriation
of land, works

170(1) The Minister may purchase or expropriate any estate or interest in land, a works or an undertaking and may purchase any personal property in conjunction with it for the purpose of

- (a) carrying out an agreement or contract related to this Act, entered into by the Minister,
- (b) a works to be constructed by the Minister,
- (c) a program or project related to the conservation and management of water, or
- (d) any other matter under the administration of the Minister related to this Act.

(2) Land, a works or undertaking acquired under this section shall be under the administration of the Minister unless, before or after the acquisition, the Lieutenant Governor in Council, by order, directs that it is under the administration of some other minister.

(3) The Minister may not sell any public land acquired under this section except in accordance with the *Public Lands Act*.

Licence,
registration,
purchase,
takeover

171(1) The Minister may, after giving notice to the licensee or registrant, purchase or take over any interest in or a part of, a licence or registration, and may purchase any personal property in conjunction with it, in the opinion of the Minister it is for the public interest and for the purpose of

- (a) carrying out an agreement or contract related to this Act, entered into by the Minister,
- (b) a works to be constructed by the Minister,
- (c) a program or development project related to the conservation and management of water, or
- (d) any other matter related to this Act.

- (r) respecting the contents of a notice of objection under section 120;
- (s) respecting forms;
- (t) specifying provisions for the purposes of section 157;
- (u) respecting identification of inspectors and investigators.

PART 12

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Transitional regulations	<p>174 <i>The Minister may make regulations</i></p> <ul style="list-style-type: none"> (a) <i>respecting the conversion to this Act of anything from the Water Resources Act;</i> (b) <i>to deal with any difficulty or impossibility resulting from the transition of the Water Act from the Water Resources Act.</i>
Applications	<p>175 <i>On the coming into force of this Act, an application commenced but not granted or refused to be granted under the Water Resources Act, by order of the Minister,</i></p> <ul style="list-style-type: none"> (a) <i>continues as an application under this Act and is subject to the requirements of this Act, or</i> (b) <i>continues as an application under this Act and is subject to the requirements of the Water Resources Act as if it were still in force.</i>
Agreements	<p>176 <i>On the coming into force of this Act, an agreement under section 14 of the Water Resources Act continues as an agreement under this Act.</i></p>
Consequential	<p>177(1) <i>The Drainage Districts Act is amended</i></p> <ul style="list-style-type: none"> (a) <i>in section 38 by striking out “Water Resources Act for the approval of the Minister” and substituting “Water Act for an approval under that Act”;</i> (b) <i>in section 39 by striking out “Water Resources Act” and substituting “Water Act”.</i>

(2) The Environmental Protection and Enhancement Act is amended

- (a) in section 30(3) by adding “or under an approval or licence under the Water Act” before “shall be paid”;*
- (b) in section 52(1) by striking out “approval” wherever it occurs and substituting “approval under this Act or an approval, amendment of an approval, licence or amendment of a licence under the Water Act”;*
- (c) in section 83(2) by striking out “this Act” and substituting “this Act, the Water Act”;*
- (d) in section 84(6) by adding “under this Act or submitted to the Board in accordance with the Water Act” after “objection”;*
- (e) in section 86(1) by adding “under this Act or under the Water Act” after “notice of objection”;*
- (f) in section 89*
 - (i) in subsection (3)(a) by striking out “order the Director” and substituting “order the Director under this Act or the Director under the Water Act”;*
 - (ii) in subsection (3)(b) by striking out “regulations” and substituting “regulations under this Act or under the Water Act”;*
 - (iii) by adding the following after subsection (3):*

(4) Notwithstanding subsections (1) and (2), the Minister, the Environmental Appeal Board or any court shall not grant a stay with respect to a water management order for the administration of priority of rights under the *Water Act*.
- (g) in section 90(1) by striking out “or (l)” and substituting “or (l) of this act or a notice of objection submitted under the Water Act, other than a notice described in section 91(1)”;*
- (h) in section 91(1) by striking out “to (j),” and substituting “to (j) of this Act or in section 111(j), (p) or (s) of the Water Act”;*
- (i) by repealing sections 134 to 138;*
- (j) by repealing section 139(a), (d) and (e);*

(k) in the Schedule by repealing section 9 and substituting the following:

9(1) Any proposed activity, proposed diversion of water, proposed operation of works for the diversion of water or proposed transfer of an allocation of water under the Water Act for which an approval, an amendment to an approval, licence or amendment to a licence under the Water Act is required.

(2) The definitions in the Water Act apply to subsection (1).

(3) *The Expropriation Act is amended by repealing section 27(2)(a) and substituting the following:*

(a) section 170 of the *Water Act*, or

(4) *The Public Safety Services Act is amended in section 5(c) by adding “subject to section 100(2)(c) of the Water Act” before “the payment”.*

(5) *The Wilderness Areas, Ecological Reserves and Natural Areas Act is amended in section 12*

(a) *by repealing subsection (3)(a) and substituting the following:*

(a) no approval, licence or preliminary certificate shall be issued or registration effected under the *Water Act* with respect to any diversion, undertaking or works, and

(b) *in subsection (4) by striking out “Water Resources Act” and substituting “Water Act”.*

(6) *The following provisions are amended by striking out “Water Resources Act” wherever it occurs and substituting “Water Act”:*

Act	Section
Irrigation Act	52(2), 193
Public Utilities Board Act	70(3)
Wildlife Act	38(2)(a)

Repeal

178 *The Water Resources Act is repealed.*

Coming into
force

179 *This Act comes into force on Proclamation.*