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Canadian Environmental Protection Act 1999

(Interpretation Part)

Canadian Environmental Protection Act, 1999**S.C. 1999, c. 33**

Assented to 1999-09-14

An Act respecting pollution prevention and the protection of the environment and human health
in order to contribute to sustainable development

Declaration

It is hereby declared that the protection of the environment is essential to the well-being of Canadians and that the primary purpose of this Act is to contribute to sustainable development through pollution prevention.

Preamble

Whereas the Government of Canada seeks to achieve sustainable development that is based on an ecologically efficient use of natural, social and economic resources and acknowledges the need to integrate environmental, economic and social factors in the making of all decisions by government and private entities;

Whereas the Government of Canada is committed to implementing pollution prevention as a national goal and as the priority approach to environmental protection;

Whereas the Government of Canada acknowledges the need to virtually eliminate the most persistent and bioaccumulative toxic substances and the need to control and manage pollutants and wastes if their release into the environment cannot be prevented;

Whereas the Government of Canada recognizes the importance of an ecosystem approach;

Whereas the Government of Canada will continue to demonstrate national leadership in establishing environmental standards, ecosystem objectives and environmental quality guidelines and codes of practice;

Whereas the Government of Canada is committed to implementing the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

Whereas the Government of Canada recognizes that all governments in Canada have authority that enables them to protect the environment and recognizes that all governments face environmental problems that can benefit from cooperative resolution;

Whereas the Government of Canada recognizes the importance of endeavouring, in cooperation with provinces, territories and aboriginal peoples, to achieve the highest level of environmental quality for all Canadians and ultimately contribute to sustainable development;

Whereas the Government of Canada recognizes that the risk of toxic substances in the environment is a matter of national concern and that toxic substances, once introduced into the environment, cannot always be contained within geographic boundaries;

Whereas the Government of Canada recognizes the integral role of science, as well as the role of traditional aboriginal knowledge, in the process of making decisions relating to the protection of the environment and human health and that environmental or health risks and social, economic and technical matters are to be considered in that process;

Whereas the Government of Canada recognizes the responsibility of users and producers in relation to toxic substances and pollutants and wastes, and has adopted the “polluter pays” principle;

Whereas the Government of Canada is committed to ensuring that its operations and activities on federal and aboriginal lands are carried out in a manner that is consistent with the principles of pollution prevention and the protection of the environment and human health;

Whereas the Government of Canada will endeavour to remove threats to biological diversity through pollution prevention, the control and management of the risk of any adverse effects of the use and release of toxic substances, pollutants and wastes, and the virtual elimination of persistent and bioaccumulative toxic substances;

Whereas the Government of Canada recognizes the need to protect the environment, including its biological diversity, and human health, by ensuring the safe and effective use of biotechnology;

And whereas the Government of Canada must be able to fulfil its international obligations in respect of the environment;

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

Administrative Duties

Marginal note: Duties of the Government of Canada

2 (1) In the administration of this Act, the Government of Canada shall, having regard to the Constitution and laws of Canada and subject to subsection (1.1),

(a) exercise its powers in a manner that protects the environment and human health, applies the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation, and promotes and reinforces enforceable pollution prevention approaches;

(a.1) take preventive and remedial measures to protect, enhance and restore the environment;

(b) take the necessity of protecting the environment into account in making social and economic decisions;

(c) implement an ecosystem approach that considers the unique and fundamental characteristics of ecosystems;

(d) endeavour to act in cooperation with governments to protect the environment;

(e) encourage the participation of the people of Canada in the making of decisions that affect the environment;

(f) facilitate the protection of the environment by the people of Canada;

(g) establish nationally consistent standards of environmental quality;

(h) provide information to the people of Canada on the state of the Canadian environment;

(i) apply knowledge, including traditional aboriginal knowledge, science and technology, to identify and resolve environmental problems;

(j) protect the environment, including its biological diversity, and human health, from the risk of any adverse effects of the use and release of toxic substances, pollutants and wastes;

(j.1) protect the environment, including its biological diversity, and human health, by ensuring the safe and effective use of biotechnology;

(k) endeavour to act expeditiously and diligently to assess whether existing substances or those new to Canada are toxic or capable of becoming toxic and assess the risk that such substances pose to the environment and human life and health;

(l) endeavour to act with regard to the intent of intergovernmental agreements and arrangements entered into for the purpose of achieving the highest level of environmental quality throughout Canada;

(m) ensure, to the extent that is reasonably possible, that all areas of federal regulation for the protection of the environment and human health are addressed in a complementary manner in order to avoid duplication and to provide effective and comprehensive protection;

(n) endeavour to exercise its powers to require the provision of information in a coordinated manner; and

(o) apply and enforce this Act in a fair, predictable and consistent manner.

Marginal note: Considerations

(1.1) The Government of Canada shall consider the following before taking any measure under paragraph (1)(a.1):

(a) the short- and long-term human and ecological benefits arising from the environmental protection measure;

(b) the positive economic impacts arising from the measure, including those cost-savings arising from health, environmental and technological advances and innovation, among others; and

(c) any other benefits accruing from the measure.

Marginal note: Action not limited

(2) Nothing in this section shall be construed so as to prevent the taking of any action to protect the environment or human health for the purposes of this Act.

Interpretation

Marginal note: Definitions

3 (1) The definitions in this subsection apply in this Act.

aboriginal government means a governing body that is established by or under or operating under an agreement between Her Majesty in right of Canada and aboriginal people and that is empowered to enact laws respecting

(a) the protection of the environment; or

(b) for the purposes of Division 5 of Part 7, the registration of vehicles or engines.

(gouvernement autochtone)

aboriginal land means

(a) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and that are subject to the Indian Act;

(b) land, including any water, that is subject to a comprehensive or specific claim agreement, or a self-government agreement, between the Government of Canada and aboriginal people where title remains with Her Majesty in right of Canada; and

(c) air and all layers of the atmosphere above and the subsurface below land mentioned in paragraph (a) or (b). (*terres autochtones*)

air pollution means a condition of the air, arising wholly or partly from the presence in the air of any substance, that directly or indirectly

(a) endangers the health, safety or welfare of humans;

(b) interferes with the normal enjoyment of life or property;

(c) endangers the health of animal life;

(d) causes damage to plant life or to property; or

(e) degrades or alters, or forms part of a process of degradation or alteration of, an ecosystem to an extent that is detrimental to its use by humans, animals or plants. (*pollution atmosphérique*)

analyst means a person or a member of a class of persons designated as an analyst under subsection 217(1). (*analyste*)

biological diversity means the variability among living organisms from all sources, including, without limiting the generality of the foregoing, terrestrial and marine and other aquatic ecosystems and the ecological complexes of which they form a part and includes the diversity within and between species and of ecosystems. (*diversité biologique*)

biotechnology means the application of science and engineering in the direct or indirect use of living organisms or parts or products of living organisms in their natural or modified forms. (*biotechnologie*)

class of substances means any two or more substances that

(a) contain the same portion of chemical structure;

(b) have similar physico-chemical or toxicological properties; or

(c) for the purposes of sections 68, 70 and 71, have similar types of use. (*catégorie de substances*)

Committee means the National Advisory Committee established under section 6. (*comité*)

ecosystem means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit. (*écosystème*)

enforcement officer means a person or a member of a class of persons designated as an enforcement officer under section 217. (*agent de l'autorité*)

environment means the components of the Earth and includes

(a) air, land and water;

(b) all layers of the atmosphere;

(c) all organic and inorganic matter and living organisms; and

(d) the interacting natural systems that include components referred to in paragraphs (a) to (c). (*environnement*)

environmental emergency has the meaning given that expression in Part 8. (*urgence environnementale*)

environmental quality includes the health of ecosystems. (*qualité de l'environnement*)

Environmental Registry means the registry established under section 12. (*Registre*)

federal land means

(a) land, including any water, that belongs to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the right to dispose of, and the air and all layers of the atmosphere above and the subsurface below that land; and

(b) the following land and areas, namely,

▪ (i) the internal waters of Canada as determined under the Oceans Act, including the seabed and subsoil below and the airspace above those waters, and

▪ (ii) the territorial sea of Canada as determined under the Oceans Act, including the seabed and subsoil below and the air and all layers of the atmosphere above that sea.

(territoire domanial)

federal source means

(a) a department of the Government of Canada;

(b) an agency of the Government of Canada or other body established by or under an Act of Parliament that is ultimately accountable through a minister of the Crown in right of Canada to Parliament for the conduct of its affairs;

(c) a Crown corporation as defined in subsection 83(1) of the Financial Administration Act; or

(d) a federal work or undertaking. (source d'origine fédérale)

federal work or undertaking means any work or undertaking that is within the legislative authority of Parliament, including

(a) a work or undertaking operated for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship;

(b) a railway, canal, telegraph or other work or undertaking connecting one province with another, or extending beyond the limits of a province;

(c) a line of ships connecting a province with any other province, or extending beyond the limits of a province;

(d) a ferry between any province and any other province or between any province and any country other than Canada;

(e) airports, aircraft and commercial air services;

(f) a broadcast undertaking;

(g) a bank or an authorized foreign bank within the meaning of section 2 of the Bank Act;

(h) a work or undertaking that, although wholly situated within a province, is before or after its completion declared by Parliament to be for the general advantage of Canada or for the advantage of two or more provinces; and

(i) a work or undertaking outside the exclusive legislative authority of the legislatures of the provinces. (entreprises fédérales)

fuel means any form of matter that is combusted or oxidized for the generation of energy. (combustible)

government means the government of a province or of a territory or an aboriginal government. (gouvernement)

Minister means the Minister of the Environment. (ministre)

movement within Canada or ***transport within Canada*** means movement or transport between provinces. (mouvement au Canada ou transport au Canada)

pollution prevention means the use of processes, practices, materials, products, substances or energy that avoid or minimize the creation of pollutants and waste and reduce the overall risk to the environment or human health. (*prévention de la pollution*)

prescribed means prescribed by regulations made under this Act. (*Version anglaise seulement*)

province includes a territory. (*province*)

release includes discharge, spray, inject, inoculate, abandon, deposit, spill, leak, seep, pour, emit, empty, throw, dump, place and exhaust. (*rejet*)

sell includes to offer for sale or lease, have in possession for sale or lease or deliver for sale or lease. (*vente*)

substance means any distinguishable kind of organic or inorganic matter, whether animate or inanimate, and includes

(a) any matter that is capable of being dispersed in the environment or of being transformed in the environment into matter that is capable of being so dispersed or that is capable of causing such transformations in the environment,

(b) any element or free radical,

(c) any combination of elements of a particular molecular identity that occurs in nature or as a result of a chemical reaction, and

(d) complex combinations of different molecules that originate in nature or are the result of chemical reactions but that could not practicably be formed by simply combining individual constituents,

and, except for the purposes of sections 66, 80 to 89 and 104 to 115, includes

(e) any mixture that is a combination of substances and does not itself produce a substance that is different from the substances that were combined,

(f) any manufactured item that is formed into a specific physical shape or design during manufacture and has, for its final use, a function or functions dependent in whole or in part on its shape or design, and

(g) any animate matter that is, or any complex mixtures of different molecules that are, contained in effluents, emissions or wastes that result from any work, undertaking or activity.

(*substance*)

sustainable development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs. (*développement durable*)

transient reaction intermediate means a substance that is formed and consumed in the course of a chemical reaction. (*intermédiaire de réaction*)

transit means, except for the purposes of sections 139 and 155, the portion of an international transboundary movement of waste or material referred to in subsection 185(1) through the territory of a country that is neither the country of origin nor the country of destination of the movement. (*transit*)

undertaking includes a business. (*Version anglaise seulement*)

Marginal note: Meaning of *Ministers* and *either Minister*

(2) Where the word *Ministers* is used in this Act, it refers to both the Minister and the Minister of Health, and where the expression *either Minister* is used in this Act, it refers to either the Minister or the Minister of Health.

Marginal note: Class of substances

(3) For the purposes of this Act, other than subsection (1), **substance** includes a class of substances.

Marginal note: Aboriginal rights

4 For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the Constitution Act, 1982.

Her Majesty

Marginal note: Binding on Her Majesty

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