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CHAPTER 13

(Bill No. 36)

An Act to Amend the Environmental Protection Act

Honourable George T. Webster
Minister of Environment, Energy and Forestry

GOVERNMENT BILL

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CHAPTER 13

An Act to Amend the Environmental Protection Act

(Assented to May 22, 2008)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Section 1 of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 is amended

(a) by the repeal of clauses (a), (a.1), (a.6) and (a.7);

(b) in clause (c), by the deletion of the words “Environment and Energy” and the substitution of the words “Environment, Energy and Forestry”;

(c) by the repeal of clause (i.01);

(d) by the repeal of clauses (i.2) to (i.6);

(e) in clause (k), by the deletion of the words “Environment and Energy” and the substitution of the words “Environment, Energy and Forestry”;

(f) by the repeal of clauses (n.1) and (n.2);

(g) by the repeal of clauses (o.1) and (o.3);

(h) by the repeal of clause (s) and the substitution of the following:

(s) “watercourse” means an area which has a sediment bed and may or may not contain water, and without limiting the generality of the foregoing, includes the full length and width of the sediment bed, bank and shore of any stream, spring, creek, brook, river, lake, pond, bay, estuary or coastal body, any water therein, and any part thereof, up to and including the watercourse boundary; watercourse

(i) by the repeal of clause (v) and the substitution of the following:

(v) “wetland” means wetland
(i) an area which contains hydric soil, aquatic or water-tolerant vegetation, and may or may not contain water, and includes any

water therein and everything up to and including the wetland boundary, and

(ii) without limiting the generality of the foregoing, includes any area identified in the Prince Edward Island Wetland Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, a shrub swamp, a wooded swamp, a bog or a meadow;

(j) by the repeal of clause (w).

2. Section 5 of the Act is repealed.

3. Subsection 6(3) of the Act is repealed and the following substituted:

Environment
officers

(3) The Minister may designate persons, by notice published in the Gazette, as environment officers.

Function

(4) The function of an environment officer is to enforce such requirements of this Act and the regulations as the Minister may authorize.

Environment
officers

(5) The following persons are environment officers by virtue of their office:

- (a) any officer or member of the Royal Canadian Mounted Police;
- (b) a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1;
- (c) a fisheries officer appointed under the *Fisheries Act* (Canada) R.S.C. 1985, c. F-14.

Identification

(6) A copy of an identification card purporting to be signed by the Minister is *prima facie* proof that the individual named therein is an environment officer.

4. Section 7 of the Act is amended

(a) in subsection (2), by the deletion of the words “he may issue an order” and the substitution of the words “the Minister or the environment officer, as the case may be, may issue an environmental protection order”;

(b) in subsection (3),

(i) by the deletion of the word “order” wherever it occurs and the substitution of the words “environmental protection order”, and

(ii) in clause (3)(f), by the addition of the words “or to protect the environment” after the words “or damage to property”;

(c) in clause (14)(b), by the deletion of the word “order” wherever it occurs and the substitution of the words “environmental protection order”;

(d) in subsection (20), by the deletion of the word “order” and the substitution of the words “environmental protection order”; and

(e) in subsection (21), by the deletion of the word “order” wherever it occurs and the substitution of the words “environmental protection order”.

5. Section 7.1 of the Act is amended

(a) in subsection (2), by the deletion of the words “he may issue an order” and the substitution of the words “the Minister or the environment officer, as the case may be, may issue an environmental protection order”;

(b) in subsection (3), by the deletion of the word “order” wherever it occurs and the substitution of the words “environmental protection order”;

(c) in clause (3)(f), by the addition of the words “or to protect the environment” after the words “or damage to property”;

(d) in clause (14)(b), by the deletion of the word “order” wherever it occurs and the substitution of the words “environmental protection order”;

(e) in subsection (20), by the deletion of the word “order” and the substitution of the words “environmental protection order”; and

(f) in subsection (21), by the deletion of the word “order” wherever it occurs and the substitution of the words “environmental protection order”.

6. The Act is amended

(a) by the repeal of the heading immediately before section 10 and by the repeal of sections 10 and 11; and

(b) by the repeal of the heading immediately before section 11.1 and by the repeal of sections 11.1 to 11.5.

7. Subsection 21.1(10) of the Act is amended by the deletion of the word “order” and the substitution of the words “environmental protection order”.

8. Subsection 25(1) of the Act is amended

(a) in the wording preceding clause (a),

(i) by the deletion of the words “may make regulations,” and the substitution of the words “may make such regulations as the Lieutenant Governor in Council considers necessary or advisable”, and

(ii) by the deletion of the words “and in particular” and the substitution of the words “, and without limiting the generality of the foregoing, may make regulations”,

(b) by the repeal of clause (c) and the substitution of the following:

(c) respecting the licenses, permits, approvals, certificates, exemptions, variances, management plans and other authorizations required to be held by persons under this Act or the regulations in respect of the carrying on of an activity or undertaking, including regulations respecting

(i) the process for applying for any such an authorization,

(ii) the issuance, approval, refusal, renewal, expiration, amendment, suspension or revocation of any such authorization,

(iii) the qualifications or requirements for, or the circumstances or standards applicable to, any decision referred to in subclause (ii), and

(iv) the imposition of terms and conditions on any such authorization and the alteration of or requirement for compliance with such terms and conditions;

(c) in subclause (d)(i), by the deletion of the words “license or permit” and the substitution of the words “license, permit or certificate”;

(d) in subclause (d)(vi), by the deletion of the word “of” and the substitution of the word “or”;

(e) by the repeal of clause (m) and the substitution of the following:

(m) prohibiting the alteration of any watercourse, or wetland, or the water flow therein unless the alteration is

(i) authorized by a license or permit issued under the regulations and the alteration is carried out in accordance with any terms or conditions imposed on such a license or permit, or

- (ii) permitted by an exception or exemption set out in the regulations;
- (m.1) regulating, controlling, and providing for, the alteration of any watercourse, or wetland, or the water flow therein, including regulations
 - (i) requiring a license or permit issued under the regulations to carry on the alteration, and
 - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which the alteration may be carried on;
- (m.2) prohibiting the carrying on of any activity specified in the regulations in or on a watercourse or wetland, including
 - (i) the draining, pumping or diverting of water from a watercourse or wetland,
 - (ii) the dredging, excavating or removal of soil, mud, sand, stones, rubbish, rocks, aggregate or other material or objects of any kind from a watercourse or wetland,
 - (iii) the dumping, infilling or deposition of soil, water, mud, sand, stones, rubbish, litter, rocks, aggregate or other material of any kind into a watercourse or wetland,
 - (iv) the construction, placement, repair, replacement, demolition or removal of buildings, structures or obstructions of any kind, including bridges, culverts, breakwaters, dams, docks, slipways and flood or erosion protection works,
 - (v) the operation of any heavy equipment or a motor vehicle on the sediment bed, beach or bank of a watercourse or on a wetland,
 - (vi) the disturbance, removal, alteration, disruption or destruction of the ground, either by excavating or depositing earthen or other material,
 - (vii) the disturbance, alteration, destruction or removal of vegetation of any kind in or on a watercourse or wetland, including but not limited to the cutting down of live trees or live shrubs, or
 - (viii) the carrying on of any type of watercourse or wetland enhancement activity, including but not limited to debris removal, habitat development, or the placement of structures,unless the activity is authorized by a license or permit issued under the regulations and the activity is carried on in accordance with any terms or conditions imposed on such license, permit or certificate, or unless the activity is permitted by an exception or exemption set out in the regulations;
- (m.3) regulating, controlling or providing for the carrying on of any activity specified in the regulations, including any activity referred to in clause (m.2), in or on a watercourse or wetland, including regulations

- (i) requiring a license, permit or certificate issued under the regulations to carry on that activity, and
- (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity may be carried on;

(f) in clause (aa), by the deletion of the word “and”;

(g) in clause (bb), by the deletion of the period and the substitution of a semicolon; and

(h) by the addition of the following after clause (bb):

(cc) defining words, phrases or terms that are used in this Act or the regulations and that are not defined in this Act;

(dd) respecting the geographic information system database maintained by the Department that is called the “Prince Edward Island Wetland Inventory”, including regulations respecting

- (i) the maintenance, amendment, publication, inspection and the proof of the contents of the Inventory,
- (ii) the identification in the Inventory of areas of the province that are wetlands, and
- (iii) the categorization of wetlands in the Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, shrub swamp, wooded swamp, bog or meadow;

(ee) prohibiting the alteration or the disturbance of the ground or soil within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary unless the alteration or disturbance is

- (i) authorized by a license or permit issued under the regulations and the alteration or disturbance is carried out in accordance with any terms or conditions imposed on such license or permit, or
- (ii) permitted by an exception or exemption set out in the regulations;

(ff) regulating, controlling or providing for the alteration or the disturbance of the ground or soil within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations

- (i) requiring a license or permit issued under the regulations authorizing the carrying on of that alteration or disturbance, and
- (i) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that alteration or disturbance may be carried on;

(gg) prohibiting the carrying on of any activity specified in the regulations within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including

- (i) the draining or pumping of water;
 - (ii) the dredging, excavating or removal of soil, mud, sand, stones, rubbish, rocks, aggregate or other material of any kind,
 - (iii) the dumping, infilling or deposition of soil, water, mud, sand, stones, rubbish, rocks, aggregate or other material or objects of any kind,
 - (iv) the construction, placement, repair, replacement, demolition or removal of buildings, structures or obstructions of any kind, including but not limited to bridges, culverts, breakwaters, dams, wharves, docks, slipways and flood or erosion protection works,
 - (v) the operation of any heavy equipment or a motor vehicle,
 - (vi) the disturbance, removal, alteration, disruption or destruction of the ground, either by excavation or depositing earthen or other material,
 - (vii) the disturbance, removal, alteration, disruption or destruction of vegetation, either by excavation or depositing earthen or other material,
 - (viii) the cutting down of live trees or live shrubs,
 - (ix) the planting and cultivation of an agricultural crop, or
 - (x) the spraying or application of any pesticide in any manner,
- unless the activity is authorized by a license or permit issued under the regulations and the activity is carried on in accordance with any terms or conditions attached to such license or permit, or unless the activity is permitted by an exception or exemption set out in the regulations;
- (hh) regulating, controlling or providing for the carrying on of any activity specified in the regulations, including any activity referred to in clause (gg), in or on a watercourse or wetland, including regulations
 - (i) requiring a license or permit issued under the regulations authorizing the carrying on of that activity, and
 - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity may be carried on;
 - (ii) prohibiting the cultivation of any row crop or any portion thereof within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, unless the cultivation is authorized by a written exemption or variance issued under, or permitted by an exception set out in, the regulations;
 - (jj) regulating, controlling or providing for the cultivation of any row crop or portion thereof within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations
 - (i) requiring a written exemption or variance issued under the regulations authorizing the carrying on of that cultivation, and

- (ii) respecting the manner, circumstances, exceptions, standards or conditions under which that cultivation may be carried on;
- (kk) respecting the geographic information system database maintained by the Department that is called the “Prince Edward Island Sloped Land Inventory”, including regulations
 - (i) respecting the maintenance, amendment, publication, inspection and the proof of the contents of the Inventory, and
 - (ii) deeming the areas of land identified in the Inventory as having a slope of greater than 9% and an area of at least one hectare, or as having such other characteristics as the regulations may specify;
- (ll) prohibiting on a provincial parcel of land, the cultivation of one or more hectares of a row crop on any area of that parcel which has a slope greater than 9%, unless there is a management plan for the provincial parcel of land and the cultivation of the row crop is carried on in accordance with that management plan;
- (mm) regulating, controlling or providing for, on a provincial parcel of land, the cultivation of one or more hectares of a row crop on any area of that parcel which has a slope greater than 9%, unless there is a management plan for the provincial parcel of land and the cultivation of the row crop is carried on in accordance with that management plan;
- (nn) respecting management plans, including the contents, components, establishment, approval, terms and conditions, amendment, maintenance, expiry and revocation of management plans;
- (oo) respecting the appointment of management specialists and respecting their powers and duties in respect of management plans or other matters;
- (pp) requiring the owner and operator of an intensive livestock operation to ensure that no livestock waste from the intensive livestock operation enters any watercourse or wetland;
- (qq) prohibiting, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary,
 - (i) the construction of an intensive livestock operation, or the construction of any building, structure, facility, or any part thereof, of an intensive livestock operation,
 - (ii) the construction of a new building, structure or facility, or any part thereof, or the expansion or renovation of existing buildings, structures or facilities, of an existing intensive livestock operation, or
 - (iii) the carrying on of any activity connected or associated with, or supporting, an activity referred to in clause (i) or (ii),

- unless such activity or undertaking is carried on under a written authorization issued under the regulations, or unless the activity or undertaking is permitted by an exception set out in the regulations;
- (rr) regulating, controlling or providing for the carrying on of any activity or undertaking referred to in clause (qq) within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations
- (i) requiring a written authorization issued under the regulations to carry on that activity or undertaking, and
 - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity or undertaking may be carried on;
- (ss) prohibiting the keeping of livestock, in a density greater than the maximum prescribed number of animal units per acre of living space, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, unless the keeping of livestock in such a density and within such a distance of the landward side of a watercourse boundary or a wetland boundary is authorized in writing by the Minister, or unless it is permitted by an excepting set out in the regulations;
- (tt) regulating, controlling or providing for the keeping of livestock within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, respecting the density of livestock, as measured in terms of the number of prescribed animal units per acre of living space or otherwise, that may be kept within a prescribed distance of the landward side of a watercourse boundary or wetland boundary, including regulations
- (i) requiring a written authorization issued under the regulations for the keeping of livestock, in a density in excess of the maximum density established by the regulations, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, and
 - (ii) respecting the manner, circumstances, exceptions, standards and conditions under which the keeping of livestock within such a distance of landward side of watercourse boundary or a wetland boundary may be carried on;
- (uu) respecting the entry upon private property and inspection of any premises, other than a dwelling-place, by an environment officer, conservation officer or inspector for the purpose of ensuring compliance with this Act and the regulations;
- (vv) respecting the conducting of tests, and the taking of samples, photographs and measurements of water or other liquid, soil, vegetation or other thing or matter by an environment officer, conservation officer or inspector for the purpose of ensuring compliance with this Act and the regulations;

(ww) requiring any person to produce for inspection, on the request of an environment officer, conservation officer or inspector, any records or other documents concerning matters relevant to ensuring compliance with this Act and the regulations;

(xx) requiring any person to produce for inspection, on the request of an environment officer, conservation officer or inspector, any certificate, license, permit, variance, exemption, management plan or other authorization required to carry on any activity or undertaking under this Act or the regulations;

(yy) respecting the stopping of motor vehicles by an environment officer or conservation officer for the purposes of enforcing this Act and the regulations;

(zz) providing that compliance by a person with the provisions of and standards set out in this Act and the regulations, and with the terms and conditions of licenses, permits, certificates, management plans, exemptions, variances and other authorizations issued under this Act and the regulations, does not preclude the issuance to the person of an environmental protection order under section 7 or 7.1 of this Act or the issuance to the person of an emergency field order referred to in clause (aaa), where the Minister or an environment officer believes, on reasonable and probable grounds, that an activity or undertaking carried on by that person is a threat to the environment or environmental health;

(aaa) respecting the issuance of verbal and written emergency field orders by an environment officer to any person who is or was carrying on an activity which is a violation of the regulations, or who is the registered owner of the property on which that activity or undertaking is or was carried on, or to any other person specified in the regulations, requiring that person to cease the activity and to take such remedial action as is specified in the order;

(bbb) requiring any person to whom a verbal or written emergency field order referred to in clause (aaa) is issued by an environment officer to comply with the order;

(ccc) respecting the delegation by the Minister of any function conferred on the Minister by a regulation to another Minister or to a director or other employee of the Department;

(ddd) deeming any person to whom a license, permit, certificate, exemption, variance or other authorization is issued, or for whom a management plan is approved, to have accepted responsibility for all work done pursuant thereto;

(eee) exempting the Minister, and any employee or officer of the Crown from liability for any loss or damage caused by

(i) any activity or undertaking or other thing done under a license, permit, exemption, management plan or other authorization issued under this Act or the regulations,

- (ii) the revocation of any such license, permit, exemption, management plan or other authorization, or
 - (iii) the amendment of any terms and conditions of any such license, permit, exemption, management plan or other authorization;
- (fff) providing that no action or other proceeding for damages lies or shall be instituted against
- (i) the Minister,
 - (ii) any person to whom the Minister has delegated one or more of his or her functions under this Act or the regulations,
 - (iii) any environment officer, conservation officer or inspector or any other person acting under the authority of this Act or the regulations, or
 - (iv) any other person lawfully assisting or acting under the direction of any person referred to in subclauses (i) to (iii),
- for anything done or not done, in good faith in the performance or intended performance of any duty or exercise or intended exercise of any power under this Act or the regulations;
- (ggg) prohibiting the giving of false or misleading information in any application, report or statement or any other document submitted or made to the Minister, an inspector, an environment officer, a conservation officer, management specialist or other employee of the Department, under this Act or the regulations;
- (hhh) respecting the grounds for refusing a license, permit, variance, certificate, exemption, management plan or other authorization that is the subject of an application, or that has been issued or approved, under this Act or the regulations;
- (iii) requiring any person to whom an environment officer or an inspector makes a request for assistance or information to provide all reasonable assistance and all information reasonably necessary to enable the environment officer or inspector to carry out his or her functions under this Act and the regulations;
- (jjj) prohibiting the obstruction of, or knowingly making of false or misleading statements to, an environment officer or an inspector engaged in carrying out his or her functions under this Act or the regulations;
- (kkk) prohibiting any person from violating or contravening any provision of the regulations or any term of condition of any license, permit, variance, certificate, exemption, management plan or other authorization issued under this Act or the regulations;
- (lll) respecting the burden of proof on a defendant, in any prosecution of an offence under this Act or the regulations, upon the prosecution establishing a *prima facie* case, or upon a defendant,
- (i) to prove due diligence, or

- (ii) to prove that any exception, exemption, proviso, excuse or qualification provided for or recognized in this Act or the regulations operates in favour of the defendant;
- (mmm) establishing factors which may be taken into account, in any prosecution of an offence under this Act or the regulations, to determine whether a defendant exercised due diligence;
- (nnn) deeming, for the purposes of a prosecution of an offence under this Act or the regulations, the registered owner of the property on which any activity or undertaking is or was carried on in contravention of this Act or the regulations to have caused or permitted the activity or undertaking unless the registered owner establishes, on the balance of probabilities, that the registered owner did not do so, and respecting the onus or burden of proof of the registered owner to do so;
- (ooo) deeming, for the purposes of a prosecution of an offence under this Act or the regulations, the identification in the Prince Edward Island Wetland Inventory of any area of the province as open water, deep marsh, shallow marsh, brackish marsh or salt marsh to be prima facie evidence that the area is such a type of wetland;
- (ppp) respecting the appeal of any order made under this Act or the regulations, or of any decision made under this Act or the regulations to refuse, revoke or amend a permit, variance, exemption or other authorization or of any decision to refuse to approve a management plan or to revoke or amend a management plan, including
 - (i) providing for the appeal of such order or decision to the Island Regulatory and Appeals Commission,
 - (ii) respecting the procedure for the appeal from such an order or decision, and
 - (iii) providing that the order or decision continues in effect pending the determination of the appeal;
- (qqq) prescribing the fine or range of fines that a person is liable to, on summary conviction, where the person is found guilty of an offence for contravening a provision of this Act or the regulations;
- (rrr) establishing that any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by the corporation is guilty of an offence;
- (sss) prescribing or specifying any thing or matter required or permitted by this Act to be, or referred to in this Act as being, prescribed or specified by the regulations, for which a specific power is not otherwise provided in this Act;

- (tt) providing for the continuation or revocation of any permit or other authorization issued under sections 10 to 11.5 of this Act that is in force immediately prior to the repeal of those provisions;
- (uuu) providing for any transitional matters or issues arising out of the repeal of sections 10 to 11.5 of this Act as the Lieutenant Governor in Council considers necessary or advisable, including providing for, the expiry of existing permits issued under section 10 of the Act;
- (vvv) respecting any other matters that the Lieutenant Governor in Council considers necessary or advisable to facilitate the implementation or administration of this Act.

9. Subsection 27(1) of the Act is amended

- (a) by the repeal of clause (c);
- (b) by the repeal of clause (e) and the substitution of the following:
 - (e) a conservation officer appointed under the *Wildlife Conservation Act*;
- (c) in clause (f), by the deletion of the words “R.S.C. 1985, Chap. F-14”.

10. Clause 28(a) of the Act is amended by the addition of the words “including an environmental protection order, variance, management plans and exemption” after the words “an order.”.

11. Subsection 29(1) of the Act is amended by the addition of the words “, including an environmental protection order, ” after the words “an order”.

12. The Act is amended by the addition of the following after section 29:

29.1 (1) In this section, “Commission” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11.

Island Regulatory and Appeals Commission

(2) A person to whom an environmental protection order is issued by the Minister or an environment officer under subsection 7(2) or 7.1(2) may, within 21 days from the date the environmental protection order is served on the person, appeal the environmental protection order by serving a notice of appeal on the Commission.

Right of appeal to Commission

(3) A person to whom an order is issued by the Minister or an environment officer under the regulations may, within 21 days from the

Idem

date the order is served on the person, appeal the order by serving a notice of appeal on the Commission, if the regulations indicate that the order may be appealed to the Commission in accordance with this section.

Idem

(4) A person who is aggrieved by a decision of the Minister or of any officer or employee of the Department

(a) to refuse that person a permit, variance, exemption or other authorization that may issued under this Act or the regulations;

(b) to revoke or amend a permit, variance, exemption or other authorization held by that person under this Act or the regulations;

or

(c) to refuse to approve a management plan proposed by that person under the regulations, or to revoke or amend a management plan of that person after it was approved,

may, within 21 days from the date the decision is served on the person, appeal the decision by serving a notice of appeal on the Commission, if the regulations indicate that the decision may be appealed to the Commission in accordance with this section.

Notice

(5) A notice of appeal served on the Commission under this section shall be in writing, on a form approved by the Commission, and shall state the grounds for the appeal, the relief sought, and the name and address of the person making the appeal.

Idem

(6) The service of a written notice of appeal under this section does not operate as a stay of, and shall not in any way affect the environmental protection order or order referred to in subsection (3) or a decision referred to in subsection (4), as the case may be, that is the subject matter of the appeal.

Notice of hearing

(7) In any appeal under this section, the Commission shall serve notice upon the person making the appeal and the Minister of the date, time and place at which the appeal will be heard.

Idem

(8) Where a notice is served by the Commission under subsection (7), the notice may be served personally, or

(a) where the notice is served on the Minister, by mailing the notice to the business address of the Minister; or

(b) where the notice is served on a person making the appeal, by mailing the notice to the address on the person's notice of appeal.

Deemed service

(9) Where service referred to in subsection (8) is made by mail, the service shall be deemed to be made on the fifth day after the date of mailing, unless the person on whom service is being made establishes that the person, acting in good faith, through the absence, accident,

illness or other cause beyond the person's control, did not receive the notice until a later date.

(10) The Commission shall, when hearing an appeal, determine its own procedure, subject to adherence to the rules of natural justice. Procedure

(11) The Commission shall hear and decide an appeal and shall issue an order giving effect to its disposition. Order

(12) The Commission may vary, confirm or rescind the order or decision being appealed. Idem

(13) The Commission shall give written reasons for its decision and shall provide a certified copy of its decision or order to the person making the appeal and to the Minister. Reasons for decision

13. Section 32 of the Act is amended

(a) in subsection (1),

(i) in clause (b), by the addition of the words “including an environmental protection order,” after the words “any order,” and

(ii) in the wording following clause (b), by the addition of the words “for which no penalty is otherwise specifically provided in this Act or the regulations,” after the words “is guilty of an offence and”;

(b) by the repeal of subsection (2);

(c) in subsection (3),

(i) in clause (b), by the addition of the words “including an environmental protection order,” after the words “any order,” and

(ii) in the wording following clause (b), by the addition of the words “for which no penalty is otherwise specifically provided in this Act or the regulations,” after the words “is guilty of an offence and”;

(d) by the repeal of subsection (4);

(e) by the repeal of subsection (5) and the substitution of the following:

(5) Any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by that corporation under subsection (3) is guilty of an offence and is liable, in respect of the commission of an offence by the corporation under subsection (3), to any penalty set out in subsection (1). Personal liability of corporate officers

(f) in subsection (8), by the deletion of the words “subsections (3) and (4)” and the substitution of the words “subsection (3)”.

14. Subclause 33(1)(a)(i) of the Act is amended by the addition of the words “including an environmental protection order,” after the words “an order,”.

15. Subclause 34(1)(a)(i) of the Act is amended by the addition of the words “including an environmental protection order,” after the words “an order,”.

CONSEQUENTIALS

16. The *Real Property Tax Act R.S.P.E.I. 1988, Cap. R-5* is amended

(a) in section 1,

(i) in clause (a.1), by the deletion of the words “under section 11.1 or section 11.2 of the *Environmental Protection Act R.S.P.E.I. 1988, Cap.E-9*” and the substitution of the words “under the Watercourse and Wetland Protection Regulations, made pursuant to the *Environmental Protection Act R.S.P.E.I. 1988, Cap. E-9*”,

(ii) by the repeal of clause (e.3),

(iii) in clause (u), by the deletion of the words “in subsection 11.1(1) of the *Environmental Protection Act*” and the substitution of the words “in the Watercourse and Wetland Protection Regulations, made pursuant to the *Environmental Protection Act*”, and

(iv) in clause (v), by the deletion of the words “in section 1 of the *Environmental Protection Act*” and the substitution of the words “in the Watercourse and Wetland Protection Regulations, made pursuant to the *Environmental Protection Act*”;

(b) by the repeal of clause 5.2(1)(b) and the substitution of the following:

(b) no row crop was planted on the real property during the calendar year, in accordance with the Watercourse and Wetland Protection Regulations, made pursuant to the *Environmental Protection Act*; and;

(c) by the repeal of subsection 5.2(2) and the substitution of the following:

“row crop”, defined

(2) In this section, “row crop” means a row crop as defined in the Watercourse and Wetland Protection Regulations made pursuant to the *Environmental Protection Act*.

(d) by the repeal of clause 5.3(1)(b) and the substitution of the following:

(b) the real property has been established and maintained during the calendar year as a buffer zone, in accordance with the Watercourse and Wetland Protection Regulations, made pursuant to the *Environmental Protection Act*; and

(e) by the repeal of subsection 5.3(2) and the substitution of the following:

(2) A person is not eligible to receive a tax credit under subsection (1) in respect of any portion of a buffer zone that is more than 15 metres landward from a watercourse boundary or a wetland boundary.

Portion of buffer zone not eligible for credit

17. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

CHAPTER 13

(Bill No. 36)

**An Act to Amend the Environmental Protection
Act**

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	May 21, 2008
<i>2nd Reading:</i>	May 22, 2008
<i>To Committee:</i>	May 22, 2008
<i>Reported:</i>	May 22, 2008
<i>3rd Reading and Pass:</i>	May 22, 2008
<i>Assent:</i>	May 22, 2008

Honourable George T. Webster
Minister of Environment, Energy and Forestry

GOVERNMENT BILL