

2010

CHAPTER 11

An Act to amend *The Environmental Assessment Act* and to make a consequential amendment to *The Forest Resources Management Act*

(Assented to May 20, 2010)

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

Short title

1 This Act may be cited as *The Environmental Assessment Amendment Act, 2010*.

S.S. 1979-80, c.E-10.1 amended

2 *The Environmental Assessment Act* is amended in the manner set forth in this Act.

New heading

3 **The heading before section 1 is struck out and the following substituted:**

“PART I
Preliminary Matters”.

Heading struck out

4 **The heading before section 2 is struck out.**

Section 2 amended

5 **Section 2 is amended:**

(a) **by adding the following clause after clause (a):**

“(a.1) ‘**business day**’ means a day other than a Saturday, Sunday or holiday”;

(b) **in subclause (d)(i) by striking out “affect” and substituting “effect”;**

(c) **by repealing clause (f) and substituting the following:**

“(f) ‘**environment officer**’ means an environment officer appointed pursuant to section 5.1, and includes a member of the Royal Canadian Mounted Police or a member of a police service as defined in *The Police Act, 1990*”; **and**

(d) **by adding the following clause after clause (h):**

“(h.1) ‘**ministry**’ means the ministry over which the minister presides”.

Heading struck out

6 The heading before section 3 is struck out.

New section 4.1

7 The following is added after section 4:

“Non-derogation of existing rights

4.1 Nothing in this Act shall be construed or interpreted so as to abrogate or derogate, directly or indirectly, any treaty or aboriginal rights recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*”.

New heading

8 The heading before section 5 is struck out and the following substituted:

**“PART II
Minister’s Responsibilities and Powers”.**

New sections 5 to 5.2

9 Section 5 is repealed and the following substituted:

“Responsibilities and powers of minister

5(1) The minister is responsible for all matters not by law assigned to any other minister or government agency respecting environmental planning, assessments, statements and the quality of the environment.

(2) For the purposes of carrying out the minister’s responsibilities, the minister may:

- (a)** conduct or commission research with respect to the environment, environmental planning, assessments or statements;
- (b)** conduct or commission studies respecting environmental planning, assessments, statements or the quality of the environment, including but not limited to baseline studies, spatial or regional studies, sectoral studies, issue-based studies or follow-up studies;
- (c)** gather, publish and disseminate information with respect to the environment, environmental planning, assessments or statements;
- (d)** make any examinations, tests and other arrangements that the minister considers necessary;
- (e)** subject to the regulations, determine:
 - (i)** the scope of assessments and content of statements for developments and for classes of developments; and
 - (ii)** the procedures and methods for conducting assessments and preparing statements for developments and for classes of developments;
- (f)** subject to the regulations, develop or establish guidelines and standards respecting any matter governed by this Act;

(g) consult with any person, any government agency or any other government about any matter governed by this Act;

(h) do any other thing that the minister considers appropriate to carrying out the minister's responsibilities or to exercising the minister's powers pursuant to this Act and the regulations.

(3) Subject to the approval of the Lieutenant Governor in Council, for the purposes of furthering, undertaking and enforcing the minister's activities and responsibilities pursuant to this Act, the minister may enter into agreements on behalf of the Government of Saskatchewan with:

(a) the Government of Canada;

(b) a government agency;

(c) the government of any other province or territory of Canada;

(d) the government of any other country, any state or division of that country or any minister, agent or official of that government; or

(e) any person, agency, board, commission, organization, institution or body.

“Appointment of environment officers

5.1(1) The minister may appoint any persons or class of persons as environment officers for the purpose of enforcing or overseeing the enforcement of this Act and the regulations.

(2) The minister may set any limit or condition on any appointment pursuant to subsection (1) that the minister considers reasonable.

“General powers of environment officers

5.2 All environment officers have the powers of peace officers to enforce this Act and the regulations and are entitled, while performing their duties, to all the protection to which peace officers are entitled pursuant to the *Criminal Code*”.

New Part III

10 The following Part is added after section 7:

“PART III

Ministerial Determination respecting Proposed Undertaking

“Interpretation of Part

7.1 In this Part:

(a) **‘applicant’** means a person who makes an application;

(b) **‘application’** means an application made pursuant to subsection 7.2(1);

(c) **‘undertaking’** means a project, operation or activity or any alteration or expansion of a project, operation or activity.

“Application for determination respecting proposed undertaking

7.2(1) A person who proposes or desires to engage in an undertaking may apply to the minister for a determination as to whether the proposed undertaking is a development.

(2) Every applicant shall:

- (a) apply in the form provided by the minister;
- (b) provide the minister with any information or material that the minister may reasonably require; and
- (c) comply with any other requirements prescribed in the regulations.

(3) The minister may require an applicant to verify, by affidavit or otherwise, any information or material submitted to the minister pursuant to this section.

“Determination respecting nature of proposed undertaking

7.3(1) On receipt of an application and after considering the information or material submitted and any other factors that the minister considers appropriate, the minister shall make a determination that:

- (a) the proposed undertaking is a development; or
- (b) the proposed undertaking is not a development.

(2) Subject to the regulations, the process and procedures to be followed in making a determination pursuant to subsection (1) are those that the minister considers advisable and may include any public notification, consultation or involvement in the process.

(3) On making a determination pursuant to subsection (1), the minister may impose on the applicant any terms and conditions that the minister considers necessary or advisable.

(4) No applicant shall fail to comply with any terms or conditions imposed on the applicant pursuant to subsection (3).

“Notification by minister

7.4 The minister shall, within 10 business days after making a determination pursuant to section 7.3:

- (a) notify the applicant, in writing, of the minister’s determination;
- (b) provide the applicant with written reasons for that determination; and
- (c) notify any other persons that the minister considers advisable of the minister’s determination.

“Approval required to proceed with development

7.5 If the minister makes a determination pursuant to clause 7.3(1)(a) that the proposed undertaking is a development, the applicant shall not proceed with the development until the applicant has received ministerial approval to proceed with the development pursuant to section 15.

“Approval not required to proceed with undertaking

7.6 If the minister makes a determination pursuant to clause 7.3(1)(b) that the proposed undertaking is not a development, ministerial approval to proceed pursuant to section 15 is not required”.

New heading

11 The heading before section 8 is struck out and the following substituted:

**“PART IV
Ministerial Approval”.**

Heading struck out

12 The heading before section 9 is struck out.

Section 9 amended

13 Subsection 9(1) is repealed and the following substituted:

“(1) Subject to the regulations and in accordance with any determination made by the minister pursuant to clause 5(2)(e), the proponent of a development shall:

- (a) conduct an assessment of the development; and
- (b) prepare and submit to the minister a statement relating to the development.

“(1.1) For the purposes of clause (1)(b), if the proponent of a development satisfies the minister that the development falls within a class of developments, the statement relating to the development must contain the contents prescribed in the regulations, or in a minister’s determination pursuant to clause 5(2)(e), for the statements relating to that class of developments”.

Section 9.1 repealed

14 Section 9.1 is repealed.

Section 11 amended

15 Subsection 11(2) is amended:

- (a) by striking out “and” after clause (a); and
- (b) by repealing clause (b) and substituting the following:
 - “(b) give notice, in any manner prescribed in the regulations, of the locations at which the statement and review may be inspected; and
 - “(c) impose any conditions relating to the inspection that the minister considers appropriate”.

New heading

16 The following heading is added before section 18:

**“PART V
Orders, Investigations and Offences”.**

Heading struck out

17 The heading before section 20 is struck out.

New section 20

18 Section 20 is repealed and the following substituted:

“Offences

20(1) No person shall:

- (a) make a false statement or provide false information to the minister, an environment officer, the ministry or any person acting on behalf of the minister;
- (b) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister, an environment officer, the ministry or any person acting on behalf of the minister;
- (c) fail to comply with a ministerial approval issued pursuant to this Act or the regulations;
- (d) obstruct or interfere with an environment officer carrying out the environment officer’s duties pursuant to this Act; or
- (e) fail to comply with any provision of this Act or the regulations.

(2) Subject to subsection (3), every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to:

- (a) a fine not exceeding \$500,000, to imprisonment not exceeding six months or to both that fine and imprisonment; and
- (b) in the case of a continuing offence, a further fine of \$250,000 for each day or part of a day during which the offence continues.

(3) If a person is convicted of an offence pursuant to 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 pursuant to subsection (2), a fine in an amount equal to the court’s estimation of the amount of those monetary benefits.

(4) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted.

(5) In addition to or instead of any penalty imposed pursuant to this Act, the convicting court, having regard to the nature of the offence and the circumstances surrounding its commission, may make an order doing one or more of the following:

- (a) prohibiting the convicted person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence;
- (b) directing the convicted person to repair any damage to the environment that resulted from the commission of the offence in a manner and within the period specified by the order;
- (c) requiring the convicted person to take steps to prevent any damage to the environment that may result from the commission of the offence in a manner and within the period specified by the order;
- (d) directing the convicted person to pay to the minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventative action taken by or at the direction of the minister as a result of the commission of the offence;
- (e) requiring the convicted person to do any other thing that, in the opinion of the court, is necessary in the circumstances”.

Section 21 repealed

19 Section 21 is repealed.

New section 22

20 Section 22 is repealed and the following substituted:

“Limitation on prosecutions

22 No prosecution for a contravention of this Act or the regulations is to be commenced more than two years after the facts on which the alleged contravention is based first came to the knowledge of the minister”.

Heading struck out

21 The heading before section 23 is struck out.

New heading

22 The heading before section 24 is struck out and the following substituted:

**“PART VI
General”.**

New sections 24 and 24.1

23 Section 24 is repealed and the following substituted:

“Service of notice or documents

24(1) Unless otherwise provided for in this Act, any notice, order or decision required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other means prescribed in the regulations.

(2) A document served by ordinary mail or registered mail is deemed to have been received on the tenth business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, he or she did not receive the document or that he or she received it at a later date.

(3) Irregularity in the service of a notice, order or decision does not affect the validity of an otherwise valid notice, order or decision.

“Immunity

24.1 No action or other proceeding lies or shall be commenced against the minister, the ministry, the minister’s designate, any environment officer, the Crown or officers and employees of the Crown for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any function or duty imposed by this Act or the regulations”.

Heading struck out

24 The heading before section 27 is struck out.

New section 27

25 Section 27 is repealed and the following substituted:

“Regulations

27 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) establishing classes of developments;
- (c) respecting:
 - (i) the scope of assessments and content of statements for developments and for classes of developments; and
 - (ii) the procedures and methods for conducting assessments and preparing statements for developments and for classes of developments;
- (d) specifying the grounds on which the minister may withhold or limit disclosure of any information, matter or document relating to a development;
- (e) for the purposes of clause 7.2(2)(c), prescribing any other requirements that an applicant must comply with;
- (f) respecting the process and procedures that are to be followed in making a determination pursuant to section 7.3;

- (g) prohibiting or regulating, in all or any part of Saskatchewan, any feasibility study or any other action permitted pursuant to subsection 8(3);
- (h) for the purposes of section 10, prescribing the manner of giving notice of an assessment;
- (i) for the purposes of clause 11(2)(b), prescribing the manner of giving notice;
- (j) respecting any guidelines or standards applicable to the approval of any development;
- (k) for the purposes of subsection 24(1), prescribing other means of service;
- (l) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (m) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

S.S. 1996, c.F-19.1, section 107 amended

26 Subsection 107(3) of *The Forest Resources Management Act* is repealed.

Coming into force

27 This Act comes into force on proclamation.

