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Ian D. Izard, Law Clerk

**HONOURABLE IAN WADDELL
MINISTER OF ENVIRONMENT,
LANDS AND PARKS**

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DRINKING WATER PROTECTION ACT

Contents

Section

Part 1 -- Introductory Provisions

- [1 Definitions](#)
- [2 Relationship with other Acts](#)
- [3 Drinking water officers](#)
- [4 Provincial drinking water coordinators](#)
- [5 Drinking water advisory committees](#)

Part 2 -- Drinking Water Supply

- [6 Water supply systems must provide potable water](#)
- [7 Construction permits and requirements for water supply systems](#)
- [8 Operating permits and requirements for water supply systems](#)
- [9 Qualification standards for persons operating water supply systems](#)
- [10 Emergency response and contingency plans](#)
- [11 Water monitoring requirements](#)
- [12 Notice if immediate reporting standard not met](#)
- [13 Water supplier must report threats to drinking water](#)
- [14 Public notice of threats to drinking water](#)
- [15 Publication of other information](#)
- [16 Floodproofing required for drinking water and other wells](#)
- [17 Water supply systems with multiple owners](#)

Part 3 -- Water System Assessments and Plans

- [18 Water source and system assessments](#)
- [19 Drinking water officer authority in relation to assessments](#)
- [20 Assessment process](#)

[21 Public notice](#)

[22 Assessment response plans](#)

Part 4 -- Drinking Water Protection

[23 Prohibition against contaminating drinking water or tampering with system](#)

[24 Requirement to report threats to drinking water](#)

[25 Hazard abatement and prevention orders](#)

[26 Orders respecting contraventions](#)

[27 Action in default](#)

[28 Direct action by drinking water officer](#)

[29 Request for investigation](#)

[30 Required consultations respecting drinking water](#)

Part 5 -- Drinking Water Protection Plans

[31 Order designating area for planning process](#)

[32 Plan development process](#)

[33 Drinking water officer authority](#)

[34 Approval of drinking water protection plan](#)

[35 Implementing a plan: effect on statutory decisions](#)

[36 Implementing a plan: restrictions on well drilling](#)

[37 Implementing a plan: enforcement of water source standards](#)

[38 Implementing a plan: local government authority](#)

[39 Review and amendment of plans](#)

Part 6 -- General

[40 Inspection authority](#)

[41 Entry warrant](#)

[42 Court order requiring compliance](#)

[43 Personal liability protection](#)

[44 Prohibition against providing false information or obstructing officials](#)

[45 Offences and penalties](#)

[46 Service of documents](#)

[47 Area descriptions](#)

[48 General regulation making authority](#)

[49 Authority in relation to regulations](#)

[50-103 Consequential and Related Amendments](#)

[104 Transitional regulations](#)

[105 Commencement](#)

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

Part 1 -- Introductory Provisions

Definitions

1 In this Act:

"aquifer" means an aquifer as defined in the *Water Act*;

"assessment" means an assessment under section 18 [*water source and system assessments*];

"construction permit" means a permit required under section 7 [*construction permits and requirements for water supply systems*];

"delegate" means a person to whom authority is delegated under section 3 (4) [*drinking water officer delegation*];

"designated environment official" means a person employed in the ministry of the environment minister who is designated by that minister, by name or title, to be a designated environment official for the purpose of a provision of this Act or the regulations that is set out in the designation;

"domestic purposes" means the use of water for

- (a) human consumption, food preparation or sanitation,
- (b) household purposes not covered by paragraph (a), or
- (c) other prescribed purposes;

"domestic water system" means a system by which water is provided or offered for domestic purposes, including

- (a) works used to obtain intake water,
- (b) equipment, works and facilities used for treatment, diversion, storage, pumping, transmission and distribution,
- (c) any other equipment, works or facilities prescribed by regulation as being included,
- (d) a tank truck, vehicle water tank or other prescribed means of transporting drinking water, whether or not there are any related works or facilities, and
- (e) the intake water and the water in the system,

but excluding equipment, works or facilities prescribed by regulation as being excluded;

"drill a well" has the same meaning as in the *Water Act*;

"drinking water" means water used or intended to be used for domestic purposes;

"drinking water health hazard" means

- (a) a condition or thing in relation to drinking water that does or is likely to
 - (i) endanger the public health, or
 - (ii) prevent or hinder the prevention or suppression of disease,
- (b) a prescribed condition or thing, or
- (c) a prescribed condition or thing that fails to meet a prescribed standard;

"drinking water officer" means a drinking water officer under section 3 [*drinking water officers*];

"drinking water protection plan" means a drinking water protection plan approved by the Lieutenant Governor in Council under section 34 [*approval of drinking water protection plan*];

"drinking water source" means a stream, reservoir, well or aquifer from which drinking water is taken;

"environment minister" means the Minister of Environment, Lands and Parks;

"immediate reporting standard" means, in relation to a water supply system, a standard established by regulation or operating permit as an immediate reporting standard for the purposes of section 12 [*notice if immediate reporting standard not met*];

"intake water" means, in relation to a water supply system, the water at or near the point of intake into the system;

"issuing official" means a person authorized by or under the regulations to issue a construction permit, operating permit or other permit required by or under this Act;

"laboratory" means a corporation, agency or other person engaged in conducting analyses for the purposes of this Act;

"local authority" means

- (a) a local government,
- (b) an improvement district or greater board, as these are defined in the *Local Government Act*, that is responsible for the provision of drinking water, and
- (c) a local body prescribed by regulation as a local authority for the purposes of the provision in which the term appears;

"local government" means

- (a) the council of a municipality,
- (b) the board of a regional district, and
- (c) a local trust committee under the *Islands Trust Act*;

"medical health officer" means a medical health officer as defined in the *Health Act*;

"operating permit" means a permit under section 8 [*operating permits and requirements for water supply systems*];

"owner" in relation to a water supply system includes

- (a) a person who is
 - (i) responsible for the ongoing operation of the water supply system, or
 - (ii) in charge of managing that operation, and
- (b) if
 - (i) parts of the water supply system are owned by different persons, or

(ii) all or part of the system is jointly owned by different persons,

all of those persons;

"potable water" means water provided by a domestic water system that

(a) meets the standards prescribed by regulation, and

(b) is safe to drink and fit for domestic purposes without further treatment;

"prescribed water supply system" means a water supply system that is of a class prescribed by regulation or is prescribed by regulation;

"private dwelling" means

(a) a structure that is occupied as a private residence, or

(b) if only part of a structure is occupied as a private residence, that part of the structure;

"Provincial drinking water coordinators" means the persons designated under section 4 [*Provincial drinking water coordinators*];

"Provincial health officer" means the Provincial health officer under the *Health Act*;

"stream" means a stream as defined in the *Water Act*;

"threat" means, in relation to drinking water, a condition or thing, or circumstances that may lead to a condition or thing, that may result in drinking water provided by a domestic water system not being potable water;

"water supplier" means a person who is the owner of a water supply system;

"water supply system" means a domestic water system, other than

(a) a domestic water system that serves only one single-family residence, and

(b) equipment, works or facilities prescribed by regulation as being excluded;

"well" means a well as defined in the *Water Act*;

"well recharge zone" means the area of land from which water percolates into an aquifer and is transmitted from there into one or more wells that are used, or are intended to be used, to provide drinking water.

Relationship with other Acts

2 (1) The authority that is provided by or under this Act is in addition to and does not restrict authority provided by or under any other enactment that may be used to protect drinking water.

(2) Nothing in this Act affects the powers, duties and functions of a medical health officer under the *Health Act* or any other enactment.

Drinking water officers

3 (1) Unless another person is appointed under subsection (2), the drinking water officer for an area is

(a) the person appointed by the medical health officer as the drinking water officer, or

(b) if no appointment is made under paragraph (a), the medical health officer.

(2) The minister may, by order, appoint persons, by name or by title, as drinking water officers and establish the area of their jurisdiction.

(3) In determining the qualifications for appointments under subsection (2), the minister must consult with the Provincial health officer and the Provincial drinking water coordinators.

(4) Subject to the regulations, a drinking water officer may, in writing, delegate to any person a power or duty of the drinking water officer under this or another enactment.

Provincial drinking water coordinators

4 (1) Two Provincial drinking water coordinators must be designated as follows:

(a) the minister must designate one person employed in that minister's ministry as a Provincial drinking water coordinator;

(b) the environment minister must designate one person employed in that minister's ministry as a Provincial drinking water coordinator.

(2) The Provincial drinking water coordinators may, after consultation with the Provincial health officer, jointly establish

(a) guidelines that must be considered, and

(b) directives that must be followed

by drinking water officers and other officials in exercising powers and performing duties under this Act and the *Health Act* in relation to drinking water.

(3) The Provincial drinking water coordinators must prepare and deliver to the minister an annual report respecting the activities under this Act for the past year.

(4) After receiving an annual report under subsection (3),

(a) the minister must promptly lay the report before the Legislative Assembly if it is in session, or

(b) if the Legislative Assembly is not in session, the minister must file the report with the Clerk of the Legislative Assembly.

Drinking water advisory committees

5 (1) The minister may, after consultation with the Provincial health officer, establish an advisory committee to provide advice and recommendations with respect to drinking water matters referred to the committee by the minister.

(2) Without limiting subsection (1), the minister may establish an advisory committee to provide advice and recommendations respecting standards and requirements to be established under this Act.

(3) A person appointed to an advisory committee

(a) must be reimbursed in accordance with the directives of Treasury Board for reasonable travelling and out of pocket expenses necessarily incurred in discharging the person's duties under this Act, and

(b) may be paid remuneration in accordance with the directives of Treasury Board, if the person is not an employee under the *Public Service Act*.

Part 2 -- Drinking Water Supply

Water supply systems must provide potable water

6 Subject to the regulations, a water supplier must provide, to the users served by its water supply system, drinking water from the water supply system that

(a) is potable water, and

(b) meets any additional requirements established by the regulations or by its operating permit.

Construction permits and requirements for water supply systems

7 (1) This section applies in relation to the construction, installation, alteration or extension of

(a) a water supply system, or

(b) works, facilities or equipment that are intended to be a water supply system or part of a water supply system.

(2) Subject to the regulations, a person

(a) must not undertake activities referred to in subsection (1) unless a construction permit for this has been issued in accordance with the regulations, and

(b) must not undertake those activities except

(i) in accordance with the regulations or the plans approved in accordance with the regulations, and

(ii) in accordance with the terms and conditions of the construction permit.

(3) In addition to any other requirements established by the regulations, a person applying for a construction permit must submit to an issuing official,

(a) in the case of a permit for the construction of a water supply system, the results of water quality analyses in accordance with the regulations, and

(b) in any case, the results of any water quality analyses required by the issuing official or drinking water officer.

(4) The issuing official may refuse to issue a permit until satisfied that the applicant has identified an owner of the water supply system who is to be responsible for the ongoing operation of the system, or in charge of managing that operation, in accordance with this Act.

(5) Terms and conditions included in a construction permit may set requirements and standards that are more stringent than those established by the regulations.

(6) A construction permit

- (a) is valid for one year, unless a different period is specified in the permit,
- (b) is not transferable unless the transfer is approved by an issuing official, and
- (c) cannot be varied except by the issuance of a new construction permit.

Operating permits and requirements for water supply systems

8 (1) In the case of a prescribed water supply system, the water supplier

- (a) must not operate the water supply system unless the water supplier holds a valid operating permit issued in accordance with the regulations,
- (b) must comply with all terms and conditions of its operating permit, and
- (c) must operate the water supply system in accordance with any applicable regulations.

(2) An issuing official may include in an operating permit terms and conditions the official considers advisable respecting the water supply system.

(3) As examples, but without limiting the authority under this section, terms and conditions respecting the following may be included in an operating permit:

- (a) treatment requirements;
- (b) equipment, works, facilities and operating requirements;
- (c) qualifications and training of the persons operating, maintaining or repairing the water supply system;
- (d) monitoring of the drinking water source and the water in the water supply system;
- (e) standards applicable to the water in the water supply system;
- (f) reporting and publication of monitoring results or other information respecting the water supply system.

(4) The drinking water officer or an issuing official may change the terms and conditions of an operating permit if the officer or issuing official considers this advisable, but must first consult with the water supplier respecting the proposed changes and must consider any comments of the water supplier in response.

(5) Terms and conditions included in an operating permit under this section may set requirements and standards that are more stringent than those established by this Act or the regulations.

(6) If the drinking water officer considers that further information is necessary to determine whether

- (a) the water provided by a water supply system meets the requirements of section 6 [*water supply systems must provide potable water*], or
- (b) a water supply system meets the requirements and standards established by the regulations and its operating permit,

the drinking water officer may order the water supplier to undertake additional monitoring or testing as directed by the officer, and to report the results and make them public as directed by the officer.

Qualification standards for persons operating water supply systems

- 9** (1) Subject to the regulations, a person must not operate, maintain or repair a prescribed water supply system unless
- (a) the person is qualified in accordance with the regulations to do this, or
 - (b) is doing this under the supervision of a person who is qualified in accordance with the regulations.
- (2) A water supplier must ensure that subsection (1) is not contravened in relation to its water supply system.

Emergency response and contingency plans

- 10** (1) In the case of a prescribed water supply system, the water supplier must have a written emergency response and contingency plan in accordance with the regulations, to be implemented in the event of an emergency or abnormal operational circumstances affecting its water supply system or drinking water source.
- (2) The drinking water officer may order a water supplier to review and update its emergency response and contingency plan.

Water monitoring requirements

- 11** (1) In the case of a prescribed water supply system, the water supplier must
- (a) monitor its drinking water source, the water in its system and the water it provides for the parameters, and at the frequency, established by the regulations and by its operating permit,
 - (b) have the sampling required for that monitoring carried out in accordance with the regulations and the directions of the drinking water officer, and
 - (c) have the analyses required for that monitoring carried out in accordance with the regulations, through laboratories that meet the requirements established by the regulations and by individuals who are qualified in accordance with the regulations.
- (2) The laboratory conducting monitoring analyses under this section must report the results in accordance with the regulations to the drinking water officer and, subject to the regulations, to the water supplier.
- (3) A water supplier must ensure that a laboratory conducting monitoring analyses under this section is aware of the applicable standards and requirements established by the regulations and the operating permit for the water supply system.

Notice if immediate reporting standard not met

- 12** (1) If a monitored parameter in relation to a water supply system fails to meet an established immediate reporting standard for that system, the laboratory conducting the analysis must immediately give notice to
- (a) the water supplier,
 - (b) the drinking water officer, and
 - (c) the medical health officer.
- (2) In addition, a water supplier who receives notice under subsection (1) must give immediate notice to the drinking water officer advising that the water supplier has been notified by the laboratory as required by this section.
- (3) For the purposes of this section, the person giving the immediate notice must

(a) take all reasonable steps to give this notice by speaking directly to or by telephone with

(i) each person required to be notified,

(ii) a person designated for this purpose by the person required to be notified, or

(iii) a person answering the telephone number designated for this purpose by the person required to be notified,
and

(b) follow with notice in writing to each person within 24 hours.

Water supplier must report threats to drinking water

13 (1) In addition to the requirements under section 12, a water supplier must immediately notify the drinking water officer if the supplier considers there is a threat that is likely to result in the drinking water provided by its water supply system not meeting the requirements of section 6 [*water supply systems must provide potable water*].

(2) Notice required by subsection (1) must be given in accordance with section 12 (3).

Public notice of threats to drinking water

14 (1) The drinking water officer may request or order a water supplier to give public notice in a manner approved by the drinking water officer, or in accordance with the directions of the drinking water officer, if

(a) the drinking water officer has received a report under section 12 [*notice if immediate reporting standard not met*],

(b) the drinking water officer has received a report under section 13 [*water supplier must report threats*], or

(c) the drinking water officer considers that there is, was or may be a threat to the drinking water provided by a water supply system.

(2) In addition to any requirement under subsection (1), if a water supplier

(a) has received a report under section 12 or considers that there may otherwise be a drinking water health hazard in relation to its water supply system, and

(b) is not able to immediately notify the drinking water officer,

the water supplier must immediately give notice of the possible hazard to the users of drinking water from that water supply system.

Publication of other information

15 A water supplier must ensure that the following information is made public in accordance with the regulations and any requirements of the drinking water officer:

(a) the water supplier's emergency response and contingency plan;

(b) the results of the monitoring required by the regulations, its operating permit or the drinking water officer, subject to any applicable time limits established by the regulations;

(c) if applicable, its current assessment under section 18 [*water source and system assessments*];

(d) if applicable, its current plan under section 22 [*assessment response plans*];

(e) other information required to be made public by the regulations, its operating permit or the drinking water officer.

Floodproofing required for drinking water and other wells

16 (1) If required by regulation, the owner or operator of a well that provides drinking water must floodproof the well in accordance with the regulations.

(2) For the purpose of protecting the drinking water provided by a well that is subject to a requirement under subsection (1), the drinking water officer may, by order,

(a) require the owner or operator of another well that the drinking water officer has reason to believe

(i) is in the same well recharge zone, or

(ii) may otherwise affect the drinking water well

to floodproof the other well in accordance with the regulations, or

(b) if the drinking water officer is not reasonably able to determine who is the owner or operator of the other well, require the owner of the land on which that well is located to floodproof that well in accordance with the regulations.

Water supply systems with multiple owners

17 (1) If a water supply system is owned by 2 or more persons, or parts of the water supply system are owned by different persons, the drinking water officer may require those persons

(a) to designate one of their number for the purposes of receiving and providing information and records as required or authorized by or under this Act, and

(b) to provide to the drinking water officer the person's name, address and other contact information as required by the drinking water officer.

(2) If subsection (1) applies and the owners do not make the required designation, the drinking water officer may designate one of the owners for the purposes of this section.

Part 3 -- Water System Assessments and Plans

Water source and system assessments

18 (1) A water supplier must prepare an assessment in accordance with this Part if required by the regulations or ordered by the drinking water officer.

(2) The purpose of an assessment is to identify, inventory and assess

(a) the drinking water source for the water supply system, including land use and other activities and conditions that may affect that source,

(b) the water supply system, including treatment and operation,

(c) monitoring requirements for the drinking water source and water supply system, and

(d) threats to drinking water that is provided by the system.

Drinking water officer authority in relation to assessments

19 (1) In addition to any requirement established by regulation, the drinking water officer may order a water supplier to prepare an assessment if

(a) the drinking water officer has reason to believe that an assessment is necessary to properly identify and assess threats to drinking water in relation to the water supply system, or

(b) more than the prescribed number of years have passed since the previous assessment.

(2) In addition to any requirement established by regulation or by order under subsection (1), if

(a) more than one water supplier uses the same drinking water source or related drinking water sources, and

(b) at least one of the water suppliers is required to prepare an assessment, by regulation or by order under subsection (1),

the drinking water officer may order 2 or more of those water suppliers to prepare a joint assessment, regardless of whether the water suppliers are otherwise required to prepare an assessment.

(3) Despite any other provision of this Act or the regulations, a drinking water officer may

(a) postpone the time for beginning an assessment,

(b) extend the time for completing an assessment, or

(c) in the case of an assessment that has been ordered by the drinking water officer, limit or expand the scope of the assessment from that otherwise required under the regulations.

Assessment process

20 (1) The process, preparation, form, content, area of coverage and time for completing an assessment must be in accordance with any applicable regulations and the directions of the drinking water officer.

(2) In determining what directions to give for the purposes of subsection (1), the drinking water officer must consult with the medical health officer and the designated environment official.

(3) In addition, the drinking water officer may establish a technical advisory committee for the purposes of

(a) providing advice respecting directions to be given under subsection (1), and

(b) reviewing the draft assessment before it is filed under subsection (4).

(4) On completion, the water supplier must file the assessment with the drinking water officer.

Public notice

21 (1) A water supplier that is required to prepare an assessment must give advance public notice that the assessment is being prepared, with the notice to be given in accordance with the regulations and any directions of the drinking water officer.

(2) After the assessment has been filed under section 20 (4) [assessment process], the water supplier must make the assessment public in accordance with section 15 [publication of other information].

Assessment response plans

22 (1) In addition to any changes to the terms and conditions of an operating permit made in response to an assessment, the drinking water officer may order the water supplier to prepare an assessment response plan if

- (a) an assessment has identified threats to the drinking water provided by the water supply system, and
- (b) the water supply system is of a prescribed class.

(2) The purpose of an assessment response plan is to identify the measures that may reasonably be taken in order to address identified threats to the drinking water that is provided by the water supply system.

(3) An assessment response plan must be prepared in accordance with the regulations and the directions of the drinking water officer.

(4) As examples of provisions that may be included in an assessment response plan, but without limiting the issues that may be addressed, the drinking water officer may require a plan to include provisions respecting any or all of the following:

- (a) public education and other means of encouraging drinking water source protection;
- (b) guides to best management and conservation practices;
- (c) infrastructure improvements;
- (d) cooperative planning and voluntary programs;
- (e) input respecting local authority zoning and other land use regulation.

(5) The drinking water officer may order a water supplier to review and revise its assessment response plan in accordance with the directions of the drinking water officer.

Part 4 -- Drinking Water Protection

Prohibition against contaminating drinking water or tampering with system

23 (1) Subject to subsection (3), a person must not

- (a) introduce anything or cause or allow anything to be introduced into a domestic water system, a drinking water source, a well recharge zone or an area adjacent to a drinking water source, or
- (b) do or cause any other thing to be done or to occur,

if this will result or is likely to result in a drinking water health hazard in relation to a domestic water system.

(2) Subject to subsection (3), a person must not

- (a) destroy, damage or tamper with any part of a domestic water system,
- (b) open or close any part of a domestic water system,

(c) introduce anything or cause or allow anything to be introduced into a domestic water system, a drinking water source, a well recharge zone or an area adjacent to a drinking water source, or

(d) do or cause any other thing to be done or to occur,

if it is reasonably foreseeable that, as a result, the owner of the domestic water system would have to limit the use of the water provided by the system on the basis that there may be a risk of a drinking water health hazard.

(3) The prohibitions in subsection (1) and (2) do not apply

(a) in relation to anything required for the proper operation, maintenance or repair of a domestic water system or the treatment of water in the system,

(b) if the introduction or activity is authorized or required by or under an enactment or the person is otherwise acting with lawful authority, or

(c) in relation to an activity prescribed by regulation that is undertaken in accordance with any conditions prescribed by regulation.

(4) For the purposes of prosecuting a contravention of subsection (1) (a), it is not necessary to prove that the thing, if diluted at or subsequent to the point at which it was introduced, continued to result in or be likely to result in a drinking water health hazard.

Requirement to report threats to drinking water

24 (1) If a person

(a) is required to report under section 55 (2) [*reporting of toxic spills*] of the *Health Act* or section 12 (5) [*spill reporting*] of the *Waste Management Act*, and

(b) considers that the event reported may result in a threat to drinking water,

the person must also promptly report the situation to the drinking water officer.

(2) Despite any other enactment, if a regulation designates

(a) persons employed in the public service of the Province, or

(b) officials acting under the authority of a specified enactment

for the purposes of this section, by title or otherwise, those designated must report to the drinking water officer any situation they observe, or of which they become aware, that they consider may be a threat to drinking water.

Hazard abatement and prevention orders

25 (1) A drinking water officer may make an order under this section if the drinking water officer has reason to believe that

(a) a drinking water health hazard exists, or

(b) there is a significant risk of an imminent drinking water health hazard.

(2) An order under this section may be directed to

(a) a person whose action or omission, in the opinion of the drinking water officer, resulted in or significantly contributed to the drinking water health hazard or risk, or

(b) a person who had possession, charge or control of a condition or thing that, in the opinion of the drinking water officer, caused or significantly contributed to the drinking water health hazard or risk.

(3) The order must be served on the person to whom it is directed and may require that person, at the person's own expense, to do one or more of the following:

(a) provide to the drinking water officer information, as requested by the drinking water officer, relating to the conditions or things that resulted in or contributed to the drinking water health hazard or risk;

(b) undertake investigations, tests, surveys and any other action the drinking water officer considers necessary to assess and determine how to address or prevent the drinking water health hazard, and report the results to the officer;

(c) abate the drinking water health hazard;

(d) acquire, construct or carry out any works or do or cease to do any other thing, if this is reasonably necessary to control, abate, stop, remedy or prevent the drinking water health hazard;

(e) adjust, repair or alter any works to the extent reasonably necessary to control, abate, stop or prevent the drinking water health hazard;

(f) give public notice in a manner approved by the drinking water officer or in accordance with the directions of the drinking water officer;

(g) prepare and implement a hazard remediation plan or hazard prevention plan acceptable to the drinking water officer.

(4) If the order is directed to a person who is not the registered owner of the property on which action is required to be taken under subsection (3) (c), (d) or (e), a copy of the order must also be served on the registered owner.

(5) An order under this section may authorize persons designated by the drinking water officer to enter on or into property for the purpose of controlling, abating, stopping, remedying or preventing the drinking water health hazard.

(6) As restrictions on subsection (5),

(a) except in the case of an emergency, a person authorized under that subsection must take reasonable steps to notify the owner or occupier before entering the property, and

(b) the authority must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

(7) If the drinking water officer considers that the situation is urgent, the officer may issue an order under this section orally, in which case the officer must serve a written version of the order in accordance with this section as soon as reasonably possible.

(8) A drinking water officer may amend or cancel an order made under this section.

(9) The authority to make an order under this section, and to take action in relation to the order under section 27 [*action in default*], applies despite any other enactment, and the order applies despite any other enactment or authorization under an enactment.

(10) In the event of a conflict between an order under this section and an order of a medical health officer under section 63

[orders respecting hazards and non-compliance] of the *Health Act*, the order of the medical health officer prevails.

Orders respecting contraventions

26 (1) If a drinking water officer has reason to believe that a person is in contravention of this Act or the regulations, the drinking water officer may make an order under this section directed at the person.

(2) An order under this section must be served on the person to whom it is directed and must set out the reasons why it was made, what the person is required to do and the time within which this must be done.

(3) As examples of provisions that may be included in an order under this section, but without limiting the authority of a drinking water officer under subsection (1), an order may include provisions for the following:

- (a) requiring the person to provide information respecting an activity;
- (b) requiring the person to take specified actions to comply with the Act or the regulations;
- (c) prohibiting the person from starting or continuing specified actions until compliance is achieved;
- (d) requiring the closure of all or part of a domestic water system;
- (e) requiring public notice to be given in a manner approved by the drinking water officer or in accordance with the directions of the drinking water officer;
- (f) requiring the person to remedy, in accordance with the directions of the drinking water officer, circumstances arising from the contravention that may cause or contribute to a drinking water health hazard;
- (g) prohibiting a water supplier from providing water, or from using a specified drinking water source or fill location, until compliance has been achieved.

(4) Section 25 (4) to (10) *[hazard abatement and prevention orders]* applies to an order under this section.

Action in default

27 (1) If a drinking water officer makes an order under section 25 *[hazard abatement and prevention orders]* or 26 *[orders respecting contraventions]*, the drinking water officer may

- (a) direct that, if the person fails to take the action required by the order, the action is to be done at the expense of that person, with the costs and expenses incurred recoverable under this section, and
- (b) enter or authorize other persons to enter on or into any property for the purpose of
 - (i) determining whether the order is being complied with, or
 - (ii) taking action in default under paragraph (a).

(2) As restrictions on subsection (1),

- (a) except in the case of an emergency, before taking action under that subsection, the drinking water officer must give notice to the person subject to the order, and
- (b) section 25 (6) *[restrictions on entry]* applies.

(3) All reasonable costs and expenses incurred in taking action in default under this section are deemed to be money paid for the use and at the request of the person to whom the order was directed, and may be recovered in any court of competent jurisdiction by the person who incurred those costs and expenses as a debt owed to that person.

(4) In addition to recovery under subsection (3), in the case of recovery against a property owner or an occupier of property who is subject to property taxation under the *Local Government Act*, *Vancouver Charter* or *Taxation (Rural Area) Act*, the costs and expenses may be recovered in accordance with section 74 (3) and (4) [*recovery of costs and expenses*] of the *Health Act*, with the required certificate to be filed by the drinking water officer.

Direct action by drinking water officer

28 (1) Despite any other provision of this Act, if a drinking water officer

(a) has reason to believe that a drinking water health hazard exists or that there is a significant risk of an imminent drinking water health hazard, and

(b) is not aware of a person against whom an order under section 25 [*hazard abatement and prevention orders*] or 26 [*orders respecting contraventions*] may appropriately be made,

the drinking water officer may take any actions the drinking water officer considers necessary to address the health hazard or risk or may authorize a water supplier or other person to do this.

(2) For the purposes of this section, the drinking water officer may authorize any persons designated by the drinking water officer to enter on or into property and take the necessary actions.

(3) As restrictions on subsection (2), section 25 (6) [*restrictions on entry*] applies.

(4) If

(a) action is taken under this section, and

(b) the drinking water officer afterwards determines that there was a person against whom an order referred to in subsection (1) could have been made,

the drinking water officer may, by order, require the person to pay all or some of the reasonable costs and expenses incurred in taking action.

(5) Section 27 (3) and (4) [*action in default -- cost recovery*] applies in relation to an order under subsection (4) of this section.

Request for investigation

29 (1) If a person considers that there is a threat to their drinking water, the person may request the drinking water officer to investigate the matter.

(2) A request under subsection (1) must be in writing and must include specifics of the facts that the person considers constitute the threat.

(3) On receiving a request under subsection (1), the drinking water officer must review the request and consider whether an investigation is warranted.

(4) As applicable,

(a) if the drinking water officer decides against undertaking an investigation, the officer must advise the requesting

person of this, and

(b) if the drinking water officer undertakes an investigation, the drinking water officer must advise the requesting person of the results of the investigation.

Required consultations respecting drinking water

30 (1) The Lieutenant Governor in Council may make regulations

(a) prescribing enactments for the purposes of this section, and

(b) prescribing that all or specified classes of decisions under a prescribed enactment may be made subject to this section.

(2) If a regulation under subsection (1) applies to an area, the minister may, by regulation applicable to all or part of that area,

(a) provide that all or specified classes of the prescribed decisions are subject to this section,

(b) identify local authorities, drinking water officers and water suppliers who must be

(i) provided an opportunity to comment on proposed decisions that are subject to this section, and

(ii) advised as to the decisions when they have been made, and

(c) specify whether persons identified under paragraph (b) may require a written response under subsection (6).

(3) Before making a regulation under subsection (2), the minister must consult with the minister responsible for the enactment in relation to which the regulation is intended to be made.

(4) Before making a decision that is subject to this section, the decision maker

(a) must provide the identified persons with an opportunity to comment on the proposed decision, and

(b) may, in relation to this, specify a time by which any comments the persons wish to make must be received by the decision maker in order to be considered.

(5) If a decision is to be made at the request of a person, by application or otherwise,

(a) the decision maker may satisfy the requirement of subsection (4) by requiring the requesting person to obtain comments for the purpose of this section and report them to the decision maker, or

(b) if no requirement is made under paragraph (a), the decision maker must provide a copy of any comments under this section to the requesting person.

(6) Despite any other enactment, a person making a decision that is subject to this section must,

(a) in making the decision, consider the comments provided under this section in relation to drinking water, and

(b) if requested by a person specified under subsection (2) (c), provide a written response respecting the decision maker's consideration of the person's comments in making the decision.

(7) Failure to provide an opportunity to comment in accordance with this section does not of itself render a decision invalid.

Part 5 -- Drinking Water Protection Plans

Order designating area for planning process

31 (1) The minister may, by order made after consultation with the environment minister, designate an area for the purpose of developing a drinking water protection plan for the area if the minister considers that a plan will assist in addressing or preventing threats to drinking water.

(2) The minister must consider whether to make an order under subsection (1) if requested by a drinking water officer, a local authority or a water supplier.

Plan development process

32 (1) The minister may, by order made after consultation with the environment minister, establish the process by which a proposed drinking water protection plan for a designated area is to be developed.

(2) Without limiting subsection (1), an order under that subsection may

(a) establish who is to be responsible for preparing the proposed plan,

(b) establish the terms of reference for the plan, or authorize the preparation of some or all of the terms of reference subject to approval by the minister, and

(c) require the establishment of a technical advisory committee in relation to development of the plan.

(3) The terms of reference for a proposed drinking water protection plan must include

(a) the purpose of the plan,

(b) the issues to be addressed in the plan,

(c) a process for public and stakeholder consultation, and

(d) a time limit for completing the plan.

(4) As examples of terms of reference that may be established for a plan, but without limiting the issues that may be addressed, the terms of reference for a drinking water protection plan may include one or more of the following:

(a) whether changes are required to a water supply system, including measures respecting its water source, intake, treatment, storage, transmission and distribution;

(b) whether the operating permit for a water supply system should include additional provisions respecting monitoring, standards or other requirements;

(c) consideration of the economic and social costs and benefits of addressing risks through treatment, source protection or other means;

(d) whether an implementation regulation under any of sections 35 to 38 should be made.

(5) In preparing a proposed drinking water protection plan, consideration must be given to the results or progress of Provincial government or local government strategic, operational and land use or water use planning processes within the designated area.

(6) A proposed drinking water protection plan may be prepared in conjunction with a proposed water management plan under Part 4 [*Water Management Plans*] of the *Water Act*.

(7) The minister may, by order, extend the time for completing a proposed drinking water protection plan whether or not the time previously set has expired.

Drinking water officer authority

33 (1) For the purposes of developing a proposed drinking water protection plan, the drinking water officer may do one or more of the following:

- (a) order a water supplier to participate in the process;
- (b) undertake investigations, tests and surveys that the drinking water officer considers advisable;
- (c) authorize persons to undertake investigations, tests and surveys referred to in paragraph (b).

(2) The drinking water officer or any person authorized under subsection (1) (c) may exercise any of the powers under section 40 [*inspection authority*] for the purposes of investigations, tests and surveys under subsection (1).

Approval of drinking water protection plan

34 (1) After a proposed plan has been prepared, it must be submitted to the minister, who must refer it to the Provincial drinking water coordinators for review.

(2) After the review required by subsection (1), the minister must place the proposed plan and the comments of the Provincial drinking water coordinators before the Lieutenant Governor in Council, who may approve all or part of the proposed plan as a drinking water protection plan.

(3) If a drinking water protection plan is approved by the Lieutenant Governor in Council, the minister must arrange for the plan to be made public.

Implementing a plan: effect on statutory decisions

35 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation applicable in relation to all or part of the designated area for the plan, do one or more of the following:

- (a) require that persons making decisions or classes of decisions under a specified enactment must consider the plan in making those decisions;
- (b) restrict the issuance or amendment of licences, approvals, permits or other authorizations under a specified enactment;
- (c) restrict the exercise of a power under a specified enactment;
- (d) provide that specified provisions of the plan are a higher level plan for the purposes of the *Forest Practices Code of British Columbia Act*.

(2) Despite an enactment specified under subsection (1), a regulation under subsection (1) (b) may establish requirements that must be imposed in issuing or amending a licence, approval, permit or other authorization under an enactment.

(3) Requirements imposed under subsection (2) are deemed to be imposed under the enactment under which the authorization is issued or amended.

- (4) The issuance or amendment of a licence, approval, permit or other authorization contrary to a regulation under subsection (1) (b), or the exercise of a power contrary to a regulation under subsection (1) (c), has no effect.

Implementing a plan: restrictions on well drilling

36 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation applicable to all or part of the designated area for the plan, restrict or prohibit one or more of the following:

- (a) the drilling of wells;
- (b) the alteration of wells;
- (c) the installation of well pumps;
- (d) the conduct of flow tests.

(2) In relation to a regulation under subsection (1), the Lieutenant Governor in Council may, by regulation, do one or more of the following:

- (a) prescribe exemptions from a requirement for a drilling authorization under section 81 [*drilling authorizations*] of the *Water Act*;
- (b) prescribe requirements for the giving of notice respecting an application for a drilling authorization;
- (c) prescribe classes of persons who may appeal a decision respecting such an application under section 92 [*appeals to Environmental Appeal Board*] of the *Water Act*.

Implementing a plan: enforcement of water source standards

37 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation,

- (a) prescribe all or part of a drinking water source,
- (b) establish water quality standards in relation to the prescribed drinking water source or part of a drinking water source,
- (c) prohibit persons from doing anything that results in the prescribed standards not being met, and
- (d) establish exceptions to a prohibition under paragraph (c).

(2) A prohibition under subsection (1) applies despite any other enactment or authorization under an enactment.

Implementing a plan: local government authority

38 (1) If requested by a local government for the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation applicable to all or part of the designated area for the plan,

- (a) provide that
 - (i) the issuance or amendment of licences, approvals, permits or other authorizations under a specified enactment, or

(ii) the exercise of a power under a specified enactment,

is subject to this section, and

(b) despite an enactment specified under paragraph (a) but subject to subsection (2), authorize the local government to

(i) establish terms and conditions that must be included in an authorization under a specified enactment, or

(ii) restrict the exercise of a specified power under an enactment,

subject to any limits or conditions established by the regulation.

(2) A local government may only exercise an authority under subsection (1)

(a) after consultation with the relevant decision maker and the drinking water officer, if this consultation is required by regulation, and

(b) in each case, if the local government has reason to believe this is necessary for the purpose of protecting the potability of drinking water.

(3) Terms and conditions established under this section are deemed to be imposed under the specified enactment to which they relate.

(4) For the purposes of undertaking work specifically contemplated by a drinking water protection plan, the minister responsible for the *Local Government Act* may, by order, exempt a local government from the requirement for a counter petition opportunity, elector assent or other elector approval under the *Local Government Act*, the *Vancouver Charter* or another enactment, subject to any conditions established by the minister.

Review and amendment of plans

39 The minister may, by order after consultation with the environment minister, direct that a current drinking water protection plan be reviewed to determine whether amendments should be made, and this Part applies to the review and to any amendment to the plan proposed by the review.

Part 6 -- General

Inspection authority

40 (1) For the purposes of this Act, a drinking water officer or issuing official may enter on or into any property and conduct an inspection and, in relation to this, has the same authority as a medical health officer under section 61 [*inspection authority*] of the *Health Act*.

(2) The authority under subsection (1) must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

Entry warrant

41 If satisfied by evidence on oath or affirmation that access on or into property is necessary for the purposes of this Act, a justice may issue a warrant authorizing a person named in the warrant to enter on or into property and conduct an inspection, undertake hazard abatement or prevention activities or take other action as authorized by the warrant.

Court order requiring compliance

42 (1) On application by a drinking water officer, the Supreme Court may grant an injunction against a person who has contravened this Act, the regulations or an order under this Act,

(a) restraining the person from contravening the Act, regulations or order, or

(b) requiring the person to take action as directed by the court for the purpose of achieving compliance or remedying or preventing a drinking water health hazard.

(2) An order under subsection (1) does not prevent the imposition of a penalty in respect of an offence in relation to the same matter.

Personal liability protection

43 (1) No action for damages lies or may be brought against a drinking water officer, delegate or issuing official because of anything done or omitted

(a) in the performance or intended performance of any duty under this Act, or

(b) in the exercise or intended exercise of any power under this Act,

unless the person was acting in bad faith.

(2) Subsection (1) does not absolve a person from vicarious liability arising out of an act or omission of a person referred to in that subsection for which the first person would be vicariously liable if this section were not in force.

Prohibition against providing false information or obstructing officials

44 A person must not

(a) provide false or misleading information when required by or under this Act to provide information, or

(b) hinder, obstruct, impede or otherwise interfere with a drinking water officer, delegate or issuing official in the performance of their duties or the exercise of their powers under this Act.

Offences and penalties

45 (1) A person who contravenes this Act, or a regulation, order, direction or permit under this Act, commits an offence.

(2) Unless a lower penalty is specified by regulation, a person who commits an offence under subsection (1) is liable on conviction to the following:

(a) in the case of an offence that is not a continuing offence, a fine of not more than \$200 000 or imprisonment for not longer than 12 months, or both;

(b) in the case of a continuing offence, a fine of not more than \$200 000 for each day the offence is continued or imprisonment for not longer than 12 months, or both.

(3) Section 104.1 [*additional sentencing authority*] of the *Health Act* applies in relation to offences under this Act.

(4) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the commission of the offence commits an offence.

(5) Subsection (4) applies whether or not the corporation is prosecuted for the offence.

(6) The time limit for laying an information respecting an offence under this Act is 2 years after the facts on which the information is based first came to the knowledge of a drinking water officer.

Service of documents

46 Section 114 of the *Health Act* applies in relation to the service of documents under this Act.

Area descriptions

47 Where this Act or the regulations authorize or require the description or designation of an area, this may be by any delineation of the area that adequately describes it including, for example, name, map, plan, legal description, reference to a stream, reference to an aquifer or other geological formation or part of one, depth or other dimension, or by any combination of methods.

General regulation making authority

48 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) The Lieutenant Governor in Council may make regulations respecting

(a) matters that are referred to in a provision of this Act as being subject to the regulations or as having to be in accordance with the regulations, or

(b) any other matter for which regulations are contemplated by this Act.

(3) Without limiting subsection (1) or (2), the Lieutenant Governor in Council may make regulations as follows:

(a) respecting water quality standards, including

(i) standards that are requirements for potable water,

(ii) standards for which monitoring must be conducted and reported,

(iii) standards for which immediate reporting is required if the standards are not met, and

(iv) standards for any other purpose established by regulation;

(b) respecting guidelines for drinking water quality that must be considered in determining what standards to establish in an operating permit and in reviewing the results of analyses required by or under this Act;

(c) respecting the issuance, amendment, renewal, suspension or cancellation of permits under this Act;

(d) establishing requirements and restrictions respecting the construction, alteration, repair, maintenance, installation, operation and monitoring of domestic water systems;

(e) respecting water treatment requirements;

(f) respecting the preparation, retention and publication of records;

(g) respecting fees for applications, permits and services provided under this Act;

(h) requiring persons to provide notice to the public in accordance with the regulations if water provided by a domestic

water system is not or may not be potable;

(i) providing for reviews or appeals of orders and other decisions under this Act;

(j) respecting the sharing of costs for a joint assessment ordered under section 19 (2) [*drinking water officer authority in relation to assessments*];

(k) respecting testing required for the purposes of section 73 [*water analyses for new or altered wells*] of the *Water Act*;

(l) providing for any other matter that the Lieutenant Governor in Council considers advisable in relation to the protection of drinking water.

Authority in relation to regulations

49 (1) In making a regulation under this Act, the Lieutenant Governor in Council or minister may do one or more of the following:

(a) make different provisions for different areas as specified in the regulation;

(b) make different regulations for different classes of persons, places, activities, conditions or things as specified in the regulation;

(c) make different regulations for different persons, places, activities, conditions or things;

(d) provide or provide for exemptions and waivers from otherwise applicable provisions of this Act or the regulations;

(e) delegate a matter to a person;

(f) confer a discretion on a person;

(g) establish criteria that a person must use in exercising a discretionary power conferred under this Act or the regulations, which apply in addition to any other criteria established by or under this Act.

(2) A regulation under this Act establishing a standard, code or rule may do so by adopting a standard, code or rule

(a) published by a national or international standards association, or

(b) enacted as or under a law of another jurisdiction, including a foreign jurisdiction.

(3) A standard, code or rule referred to in subsection (2)

(a) may be adopted in whole, in part or with any changes considered appropriate, and

(b) may be adopted as it stands at a specific date, as it stands at the time of adoption or as amended from time to time.

Consequential and Related Amendments

Commercial River Rafting Safety Act

50 Section 6 (2) of the Commercial River Rafting Safety Act, R.S.B.C. 1996, c. 56, is amended by striking out "Section 40 (2) to (7) of the Water Act" and substituting "Section 92 (4) to (9) of the Water Act".

Environmental Assessment Act

51 Section 25 of the Environmental Assessment Act, R.S.B.C. 1996, c. 119, is amended in the definition of "specified enactment" by striking out ", or" at the end of paragraph (m) (iii) and adding the following paragraph:

(iv) section 81 (drilling authorizations), or .

52 Section 25 is amended in the definition of "specified enactment" by repealing paragraph (n) and substituting the following:

(n) section 7 (construction permits and requirements for water supply systems) of the *Drinking Water Protection Act*.

Farm Practices Protection (Right to Farm) Act

53 Section 2 (2) (c) of the Farm Practices Protection (Right to Farm) Act, R.S.B.C. 1996, c. 131, is repealed and the following substituted:

(c) not be conducted in contravention of the *Health Act*, *Drinking Water Protection Act*, *Pesticide Control Act* or *Waste Management Act*, the regulations under those Acts or any land use regulation.

Fish Protection Act

54 Section 2 of the Fish Protection Act, S.B.C. 1997, c. 21, is amended by striking out "Constitution Act, 1992." and substituting "Constitution Act, 1982."

55 Section 10 (1) is amended by striking out "section 22.2 of the Water Act," and substituting "Part 4 [Water Management Plans] of the Water Act,".

56 Section 17 (b) is repealed insofar as it amends section 1 of the Water Act, R.S.B.C. 1996, c. 483, by adding the definitions of "water management area" and "water management plan".

57 Section 18 is repealed.

58 Section 20 (a) is repealed.

59 Section 20 (b) is repealed.

60 Section 20 (c) is repealed.

61 Section 21 is repealed insofar as it adds section 40.1 (2) (b) of the Water Act and the following is substituted:

(b) an activity, under this Act or another enactment, prescribed under section 46 (2) (1) of this Act.

62 The following sections are repealed:

(a) section 22 (a);

(b) section 22 (b) insofar as it amends the Water Act by adding section 41 (1) (w);

(c) section 22 (b) insofar as it amends the Water Act by adding section 41 (1) (y);

(d) section 22 (c) insofar as it amends the Water Act by repealing and replacing section 41 (2);

(e) section 22 (c) insofar as it amends the Water Act by adding section 41 (2.1) (a);

(f) section 22 (c) insofar as it amends the Water Act by adding section 41 (2.1) (b);

(g) section 22 (c) insofar as it amends the Water Act by adding section 41 (2.1) (d);

(h) section 22 (c) insofar as it amends the Water Act by adding section 41 (2.2);

(i) section 22 (c) insofar as it amends the Water Act by adding section 41 (2.3).

63 Section 24 is repealed and the following substituted:

24 Section 46 (2) of the Water Act is amended by adding the following paragraph:

(l) prescribing for the purposes of section 40.1 (2) other activities that, in the opinion of the Lieutenant Governor in Council, are regulated under this Act or another enactment in relation to the introduction of debris into streams.

64 Section 24 is repealed.

Forest Practices Code of British Columbia Act

65 Section 1 (1) of the Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, is amended in the definition of "higher level plan" by striking out "and" at the end of paragraph (c) and by adding the following paragraph:

(c.1) prescribed under section 35 (1) (d) [implementing a plan: effect on statutory decisions] of the *Drinking Water Protection Act*, and .

66 Section 41 is amended

(a) by adding the following subsection:

(9.1) In subsections (10) and (11), "**drinking water**" and "**drinking water officer**" have the meaning given to them in the *Drinking Water Protection Act*. , **and**

(b) by repealing subsections (10) and (11) and substituting the following:

(10) The regional manager may designate an area as a community watershed if

(a) in the opinion of the regional manager and a designated environment official, in consultation with the drinking water officer, it should be designated as a community watershed,

(b) the area is all or part of the drainage area above the most downstream point of diversion for drinking water use that is licensed under the *Water Act*, and

(c) the area is not an area referred to in subsection (8) (a).

(11) With the agreement of a designated environment official, after consultation with the drinking water officer, the regional manager may by written order vary or cancel an area's status as a community watershed, whether the area is defined to be a community watershed under subsection (8) (a) or designated to be a community watershed under subsection (10).

Health Act

67 Section 1 of the Health Act, R.S.B.C. 1996, c. 179, is amended

(a) by striking out the definition of "health hazard" and substituting the following:

"health hazard" means

- (a) a condition or thing that does or is likely to
 - (i) endanger the public health, or
 - (ii) prevent or hinder the prevention or suppression of disease,
- (b) a prescribed condition or thing, or
- (c) a prescribed condition or thing that fails to meet a prescribed standard; ,

(b) by adding the following definition:

"issuing official" means a person authorized by or under the regulations to issue a permit or other authorization required by or under this Act; ,

(c) in the definition of "owner" by striking out "and, for the purposes of sections 61 to 63, includes an occupier of the land or premises", and

(d) by adding the following definition:

"private dwelling" means

- (a) a structure that is occupied as a private residence, or
- (b) if only part of a structure is occupied as a private residence, that part of the structure; .

68 The following section is added in Part 1:

Other local authorities may be given functions equivalent to local board

1.1 (1) The Lieutenant Governor in Council may, by regulation,

- (a) designate
 - (i) a local government or class of local government, or
 - (ii) another public body or class of public body

as a local authority for the purposes of subsection (2),

- (b) establish the geographical jurisdiction of a designated local authority,

(c) specify the provisions of this Act that apply under subsection (2) in relation to a designated local authority, and

(d) establish terms and conditions respecting the powers, duties and functions of a local authority under subsection (2).

(2) Subject to the regulation under subsection (1), a designated local authority has, within its area of jurisdiction, the same powers, duties and functions as a local board in relation to the prescribed provisions of the Act.

69 Section 8 (2) (m) (ii) (B) is repealed.

70 Section 8 is amended by adding the following subsection:

(6) In addition to the matters set out in subsections (1) and (2), the Lieutenant Governor in Council may make regulations authorizing persons to issue permits or other authorizations required by or under this Act.

71 The following section is added:

Personal liability protection

34.1 (1) No action for damages lies or may be brought against a health officer, a medical health officer, a public health inspector or a person acting under section 33 (4) because of anything done or omitted

(a) in the performance or intended performance of any duty under this Act, or

(b) in the exercise or intended exercise of any power under this Act,

unless the person was acting in bad faith.

(2) Subsection (1) does not absolve a person from vicarious liability arising out of an act or omission of a person referred to in that subsection for which the first person would be vicariously liable if this section were not in force.

72 Section 58 is repealed and the following substituted:

Investigation to be made by local board

58 (1) If information has been given to a local board under section 57, the local board must investigate the cause of the complaint.

(2) For the purposes of this section, the local board or any 2 of its members

(a) may hear the testimony of all persons who come before it to testify about the matter, and

(b) have the same authority as a justice to require and compel the attendance of witnesses and the giving of evidence.

73 Section 59 is amended

(a) by repealing subsection (1) and substituting the following:

(1) Subject to subsection (1.1), a local board may make an order under this section if any of the following apply:

(a) an order under section 63 against an owner or occupier of land or premises within its area or jurisdiction has not been complied with and the medical health officer requests the local board to act under this section;

(b) the local board has reason to believe that a health hazard exists;

(c) the medical health officer advises the local board that a health hazard exists.

(1.1) If a health hazard referred to in subsection (1) appears to be wholly or partially caused by an act or default committed outside its area of jurisdiction, the board may make an order under this section that is effective outside that area, but only on the recommendation of the Provincial health officer.

(1.2) If authorized under this section, the local board may, as applicable,

(a) order the owner or occupier of the land or premises on which the health hazard exists or from which the health hazard arises to terminate the health hazard in accordance with the order, or

(b) order the owner or occupier to comply with the order under section 63, with a view to taking action in default under subsection (3) of this section if the person does not comply.

(1.3) An order under this section

(a) must be served on the owner or occupier to whom it is directed, and

(b) must set out the reasons why it was made, what the owner or occupier is required to do and the time within which this must be done.

(1.4) If the order is directed to an occupier, a copy of the order must also be promptly served on the owner. ,

(b) in subsection (2) by striking out "the owner or occupier of the premises," and substituting "the owner or occupier" and by striking out "the owner should be" and substituting "the owner or occupier should be", and

(c) by adding the following subsections:

(3) If a local board makes an order under this section, the local board may

(a) direct that, if the person fails to take the action required by the order, the action is to be done at the expense of that person, with the costs and expenses recoverable under section 74 or 75, and

(b) authorize officers, employees and agents of the local board to enter at all reasonable times on or into any property that is subject to the order for the purpose of

(i) determining whether the order is being complied with, or

(ii) taking action in default under paragraph (a).

(4) As restrictions on subsection (3),

(a) except in the case of an emergency, a person authorized under that subsection must take reasonable steps to notify the owner or occupier before entering the property, and

(b) the authority must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

74 Section 59 (1) is amended by adding the following paragraph:

(d) a drinking water officer under the *Drinking Water Protection Act* advises the local board that a drinking water

health hazard exists.

75 Section 60 is repealed.

76 Section 61 is repealed and the following substituted:

Inspection authority

61 (1) A health officer, medical health officer or public health inspector may enter on or into any property and conduct an inspection for the purpose of determining

(a) whether a health hazard exists, or

(b) whether this Act and the regulations are being complied with.

(2) The authority under subsection (1) must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

(3) An inspection under subsection (1) may be conducted

(a) at any reasonable hour of the day or night, or

(b) at any other time if the person conducting the inspection has reason to believe that a health hazard exists.

(4) A person conducting an inspection under subsection (1) may do one or more of the following for the purposes of the inspection:

(a) bring along any equipment or materials required for the inspection and be accompanied and assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection;

(b) inspect any records that may be relevant to the purpose of the inspection and make copies of them or remove them temporarily for the purpose of making copies;

(c) require a person to produce within a reasonable time records in the person's possession or control that may be relevant;

(d) inspect any works, equipment, clothing, food, medication, other substances, animals or any other thing at the place;

(e) take photographs or make other recordings in respect of the place;

(f) take samples and perform tests, including tests in which a sample is destroyed;

(g) require that a place not be disturbed for a reasonable period of time or that a tool, equipment, machine, device or other thing or process be operated or set in motion or that a system or procedure be carried out;

(h) question persons with respect to matters that may be relevant, require persons to attend to answer questions and require questions to be answered on oath or affirmation;

(i) attend a relevant training program of an employer;

(j) exercise other powers that may be necessary or incidental to the carrying out of the person's functions and duties under this Act or the regulations.

(5) If a health officer, medical health officer or public health inspector removes any records under subsection (4) (b), the officer or inspector must

(a) give a receipt for the records to the person from whom they were taken, and

(b) promptly return the records when they have served the purposes for which they were taken.

(6) If a person conducting an inspection under this section requests this, a peace officer may assist the person in carrying out his or her functions and duties under this Act or the regulations.

Entry warrant

61.1 If satisfied by evidence on oath or affirmation that access on or into property is necessary for the purposes of this Act, a justice may issue a warrant authorizing a person named in the warrant to enter on or into property and conduct an inspection or take other action as authorized by the warrant.

77 Section 62 (1) is amended

(a) by striking out "If the owner" **and substituting** "In addition to the power of a justice to issue a warrant under section 61.1, if an owner or occupier", **and**

(b) by striking out "that the owner" **and substituting** "that the owner or occupier".

78 Section 63 is amended

(a) by repealing subsections (1) to (3) and substituting the following:

(1) If, after an inspection under section 61, the health officer, medical health officer or public health inspector has reason to believe that

(a) a health hazard exists,

(b) there is a significant risk of an imminent health hazard, or

(c) the place that was the subject of inspection or the owner or occupier of it is in contravention of this Act or the regulations,

the health officer, medical health officer or public health inspector may issue an order under this section.

(1.1) An order under this section may be directed to

(a) a person whose action or omission resulted in or significantly contributed to the health hazard, significant risk or contravention,

(b) a person who had possession, charge or control of the condition or thing that constitutes the health hazard or risk at the time it arose, or

(c) the owner or occupier of the place where the health hazard, risk or contravention exists.

(2) An order under this section must be served on the person to whom it is directed, and must set out the reasons it was made, what the person is required to do and the time within which this must be done.

(3) If the order is directed to a person who is not the registered owner of the property on which the action is required to be taken, a copy of the order must also be served on the registered owner. , **and**

(b) by repealing subsections (5) and (6) and substituting the following:

(5) If the health officer, medical health officer or public health inspector considers the situation is urgent, that official may issue an order orally, in which case the official must serve a written version of the order in accordance with this section as soon as reasonably possible.

(6) If a health officer, medical health officer or public health inspector makes an order under this section, that official may

(a) direct that, if the person fails to take the action required by the order, the required action is to be done at the expense of that person, with the costs and expenses incurred recoverable under section 74 or 75, and

(b) enter or authorize other persons to enter on or into any property that is subject to the order for the purpose of

(i) determining whether the order is being complied with, or

(ii) taking action in default under paragraph (a).

(6.1) As restrictions on subsection (6),

(a) except in the case of an emergency, before taking action under that subsection, the person making the order must give notice to the person subject to the order,

(b) except in the case of an emergency, a person authorized to enter property under that subsection must take reasonable steps to notify the owner or occupier before entering the property, and

(c) the authority must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

79 Section 71 is repealed.

80 Section 74 is amended

(a) in subsection (1) by striking out "incurring them, under ordinary process of law." and substituting "who incurred them from the person referred to in paragraph (a) or (b) as a debt.", and

(b) by repealing subsection (3) and substituting the following:

(3) In addition to recovery under subsection (1), if the person from whom the costs and expenses are recoverable is a property owner or an occupier of property that is subject to property taxation under the *Local Government Act*, *Vancouver Charter* or *Taxation (Rural Area) Act*, the costs and expenses may be recovered as follows:

(a) in the case of property within a municipality, the health officer or local board may file a certificate of costs and expenses with the municipality, which must collect the amount in the same manner as taxes against the property under the *Local Government Act* or the *Vancouver Charter*, as applicable;

(b) in the case of other property, the health officer or local board may file a certificate of costs and expenses with the Surveyor of Taxes, who must collect the amount in the same manner as taxes against the property under the *Taxation (Rural Area) Act*.

(4) If an amount is to be collected under subsection (3),

(a) the amount is deemed to be a municipal or Provincial tax, as applicable, and must be dealt with in the same manner as taxes against the property would be under the *Local Government Act, Taxation (Rural Area) Act* or *Vancouver Charter*, as applicable, and

(b) when collected, the collecting municipality or the Minister of Finance and Corporate Relations, as applicable, must pay the amount to the person to whom it is owed.

81 Section 103 is amended by striking out "\$500" and substituting "\$2 000".

82 Section 104 is repealed and the following substituted:

Offence and penalty

104 (1) A person who contravenes this Act or a regulation, bylaw, order, direction or permit under this Act commits an offence.

(2) Unless a lower penalty is specified by regulation or this Act, a person who commits an offence under subsection (1) is liable on conviction to the following:

(a) in the case of an offence that is not a continuing offence, a fine of not more than \$200 000 or imprisonment for not longer than 12 months, or both;

(b) in the case of a continuing offence, a fine of not more than \$200 000 for each day the offence is continued or imprisonment for not longer than 12 months, or both.

Additional sentencing authority

104.1 (1) If a person is convicted of an offence under this Act, in addition to any punishment imposed, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

(a) prohibiting the person from doing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that resulted or may result from the commission of the offence;

(c) directing the person to pay the government an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the government as a result of the commission of the offence;

(d) directing the person to perform community service;

(e) directing the person to post a bond or pay into court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section;

(f) directing the person to submit to the minister, on application by the minister within 3 years after the date of the conviction, any information respecting the activities of the person that the court considers appropriate in the circumstances;

(g) directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence;

(h) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences under this Act.

(2) An application for variation of an order under subsection (1) may be made to the court that made the order by

(a) the Attorney General, or

(b) the person against whom the order was made.

(3) Before hearing an application under subsection (2), the court may order the applicant to give notice of the application in accordance with the directions of the court.

(4) On an application under subsection (2), if the court considers variation appropriate because of a change in the circumstances, the court may make an order doing one or more of the following:

(a) changing the original order or any conditions specified in it;

(b) relieving the person against whom the order was made absolutely or partially from compliance with all or part of the original order;

(c) reducing the period for which the original order is to remain in effect;

(d) extending the period for which the original order is to remain in effect, subject to the limit that this extension must not be longer than one year.

(5) If an application under subsection (2) has been heard by a court, no other application may be made in respect of the order under subsection (1) except with leave of the court.

(6) If a person fails to comply with an order referred to in subsection (1) (g) directing the person to publish the facts relating to the commission of an offence, the minister may publish those facts and recover the costs of publication from the person.

(7) If

(a) an order under this section directs a person to pay an amount of money as compensation or for any other purpose, or

(b) the minister incurs publication costs under subsection (6),

the amount and any interest payable on that amount constitute a debt due to the government and may be recovered as such in any court of competent jurisdiction.

Hydro and Power Authority Act

83 Section 32 (7) of the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, is amended by adding the following paragraph:

(e.1) the *Drinking Water Protection Act*; .

84 Section 32 (7) (z) is repealed and the following substituted:

(z) Part 1, Part 2, except sections 27, 28, 30, 43 and 50, Part 4, Part 5 and Part 6, except section 101 (3) (b), of the *Water Act*.

Local Government Act

85 Section 694 (1) of the Local Government Act, R.S.B.C. 1996, c. 323, is amended by adding "the Drinking Water Protection Act," after "the Health Act,".

Oil and Gas Commission Act

86 Section 9 (1) of the Oil and Gas Commission Act, S.B.C. 1998, c. 39, is amended by striking out "section 40 of the Water Act." and substituting "section 92 of the Water Act."

Water Act

87 The Water Act, R.S.B.C. 1996, c. 483, is amended by adding the following heading before section 1:

Part 1 -- Definitions and Application .

88 Section 1 is amended

(a) by adding the following definitions:

"aquifer" means

- (a) a geological formation,
- (b) a group of geological formations, or
- (c) a part of one or more geological formations

that is water bearing and capable of storing, transmitting and yielding water;

"close a well" means take a well out of service permanently;

"construct a well" means to

- (a) drill a well,
- (b) alter a well,
- (c) develop a well,
- (d) repair or maintain a well,
- (e) inject water or any other substance into a well, or
- (f) construct, install, replace, repair, alter, maintain or remove works that relate to ground water or a well;

"deactivate a well" means take steps to secure and protect a well while it is temporarily out of service;

"drill a well" means to make a well by drilling, boring, driving or jetting or by excavating;

"drilling authorization" means an authorization under section 81 [*drilling authorizations*];

"drinking water officer" has the same meaning as in the *Drinking Water Protection Act*;

"monitoring well" means a well that

(a) is used or intended to be used for the purpose of ongoing monitoring, observing, testing, measuring or assessing

(i) the level, quantity or quality of ground water, or

(ii) subsurface conditions, including geophysical conditions, and

(b) is not used or intended to be used for the purpose of

(i) exploring for or extracting ground water for use, or

(ii) injecting water or any other substance into ground water on an ongoing basis;

"private dwelling" means

(a) a structure that is occupied as a private residence, or

(b) if only part of a structure is occupied as a private residence, that part of the structure;

"well" means an artificial opening in the ground made for the purpose of

(a) exploring for, or extracting and using, ground water,

(b) testing or measuring ground water,

(c) recharging or dewatering an aquifer,

(d) ground water remediation,

(e) use as a monitoring well, or

(f) use as a geotechnical well other than as a monitoring well,

but does not include

(g) an artificial opening regulated under the *Geothermal Resources Act*, the *Mines Act* or the *Petroleum and Natural Gas Act*, or

(h) an artificial opening of a prescribed class or made for a prescribed purpose;

"well pump" means a pump that

(a) is at or in a well, and

(b) is used or intended to be used for the purposes of

(i) extracting ground water from the well,

(ii) adding water to a well to recharge the well or an aquifer, or

(iii) dewatering an aquifer;

"wellhead" means

(a) the physical structure, facility, cover, adapter or device

(i) that is at the top or side of the well, and

(ii) from or through which ground water flows or is pumped from a well, and

(b) any casing, cap, valve, grout, liner, seal, vent, drain or pump house relating to the well,

but does not include a well pump; ,

(b) in the definition of "stream" by striking out "whether usually containing water or not, ground water, and a lake," **and substituting** "whether usually containing water or not, and a lake,"

(c) by adding the following definition:

"water management plan" means a water management plan approved by the Lieutenant Governor in Council under section 64 [approval of water management plan]; , **and**

(d) by repealing the definition of "works" and substituting the following:

"works" means

(a) anything capable of or used for

(i) diverting, storing, measuring, conserving, conveying, retarding, confining or using water,

(ii) producing, measuring, transmitting or using electricity,

(iii) collecting, conveying or disposing of sewage or garbage, or

(iv) preventing or extinguishing fires,

(b) booms and piles placed in a stream,

(c) obstructions placed in or removed from streams or the banks or beds of streams,

(d) changes in and about a stream,

(e) access roads to any of the works referred to in paragraphs (a) to (d), and

(f) except in Parts 2 and 3, unless made applicable by a regulation under section 1.1,

(i) wells,

(ii) wellheads,

(iii) anything that can be or is used for injecting or otherwise adding water or any other substance to a well,

- (iv) anything that can be or is used to construct a well, deactivate a well or close a well,
- (v) anything that can be or is used for exploring for, testing, extracting or monitoring ground water,
- (vi) anything that can be or is used for disinfecting a well,
- (vii) an injection system attached to a work that is used for conveying, from a well, ground water that will be used for applying fertilizers or pesticides,
- (viii) anything that can be or is used in relation to a monitoring well or a well made for the purpose of ground water remediation, and
- (ix) access roads to wells.

89 *The following section is added:*

Application of Act to ground water

1.1 (1) Subject to a regulation under subsection (2), Part 2 [*Licensing, Diversion and Use of Water and Related Matters*] and Part 3 [*Water Users' Communities*] of this Act do not apply to ground water.

(2) The Lieutenant Governor in Council may, by regulation, fix a day on and from which some or all of Parts 2 and 3 of this Act apply to ground water in British Columbia or in an area of British Columbia the Lieutenant Governor in Council designates in the regulation.

(3) A regulation under subsection (2) may

(a) describe the area that it designates by any delineation of the area that adequately describes it including, for example, name, map, plan, legal description, reference to a stream, reference to an aquifer or other geological formation or part of one, depth or other dimension, or by any combination of methods, and

(b) modify or add to any provision of the Act or regulations as the Lieutenant Governor in Council considers necessary or advisable for the purpose of making some or all of Parts 2 and 3 effectively applicable to ground water.

90 *The following heading is added before section 2:*

**Part 2 -- Licensing, Diversion and Use of Water
and Related Matters .**

91 *Section 3 is repealed.*

92 *Sections 31, 32, 36, 37, 38, 39 and 40 are repealed.*

93 *Section 40.1 (2) is amended by repealing paragraph (b) and substituting the following:*

(b) an activity, under this Act or another enactment, prescribed under section 101 (3) (j) of this Act.

94 *Sections 41, 41.1, 41.2, 45, 46, 48 and 49 are repealed.*

95 *The following heading is added before section 51:*

Part 3 -- Water Users' Communities .

96 Section 61 (2) is amended by striking out "unless an appeal is taken to the minister from the comptroller's order" and substituting "unless an appeal is taken to the appeal board from the comptroller's order".

97 The following Part is added:

Part 4 -- Water Management Plans

Order designating area for planning process

62 (1) The minister may, by order, designate an area for the purpose of developing a water management plan if the minister considers that a plan will assist in addressing or preventing

- (a) conflicts between water users,
- (b) conflicts between water users and instream flow requirements, or
- (c) risks to water quality.

(2) Without limiting the reasons for which an order under subsection (1) may be made, the minister may consider concerns related to fish, fish habitat and other environmental matters.

(3) An order under subsection (1) must include the reasons for which it is made.

(4) An area designation under subsection (1) may be by any delineation of the area that adequately describes it including, for example, name, map, plan, legal description, reference to a stream, reference to an aquifer or other geological formation or part of one, depth or other dimension, or by any combination of methods.

Plan development process

63 (1) The minister may, by order, establish the process by which a proposed water management plan for a designated area is to be developed.

(2) Without limiting subsection (1), an order under that subsection may

- (a) establish who is to be responsible for preparing the proposed plan,
- (b) establish the terms of reference for the plan, or authorize the preparation of some or all of the terms of reference subject to approval by the minister, and
- (c) require the establishment of a technical advisory committee in relation to development of the plan.

(3) The terms of reference for a proposed water management plan must include

- (a) the purpose of the plan,
- (b) the issues to be addressed in the plan,
- (c) a process for public and stakeholder consultation, and
- (d) a time limit for completing the plan.

(4) Without limiting the terms of reference that may be established for a proposed water management plan, they may include

considerations relating to water in a stream, ground water and surface water runoff not in a stream.

(5) In preparing a proposed water management plan, consideration must be given to the results or progress of Provincial government or local government strategic, operational and land use or water use planning processes within the designated area.

(6) A proposed water management plan may be prepared in conjunction with a proposed drinking water protection plan under the *Drinking Water Protection Act*.

(7) The minister may, by order, extend the time for completing a proposed water management plan whether or not the time previously set has expired.

(8) For the purposes of developing a proposed water management plan, the person responsible for preparing the plan may

- (a) order licensees to provide information that the person considers advisable,
- (b) undertake investigations, tests and surveys that the person considers advisable, and
- (c) authorize other persons to undertake investigations, tests and surveys referred to in paragraph (a).

(9) For the purposes of this section, the minister may direct that section 83 applies to the person responsible for preparing a proposed water management plan and persons working under that person's direction, subject to any limits or conditions established by the minister.

Approval of water management plan

64 (1) After a proposed water management plan has been prepared, it must be submitted to the minister.

(2) After reviewing the proposed plan, the minister must place the proposed plan and any comments of the minister before the Lieutenant Governor in Council, who may approve all or part of the proposed plan as a water management plan.

(3) If a water management plan is approved by the Lieutenant Governor in Council, the minister must arrange for the plan to be made public.

Implementing a plan: effect on statutory decisions

65 (1) For the purposes of implementing a water management plan, the Lieutenant Governor in Council may, by regulation applicable in relation to all or part of the designated area for the plan, do one or more of the following:

- (a) require that persons making decisions or classes of decisions under a specified enactment must consider the plan in making those decisions;
- (b) restrict the issuance or amendment of licences, approvals, permits or other authorizations under a specified enactment;
- (c) restrict the exercise of a power under a specified enactment.

(2) As a limit on subsection (1) (b) and (c), a regulation under that subsection may not be made in relation to

- (a) the *Forest Practices Code of British Columbia Act*, or
- (b) the *Forest Act* or the *Range Act*, respecting an authorization or the exercise of a power under those Acts, if the *Forest Practices Code of British Columbia Act*, or the standards or regulations under that Act, apply in relation to the activity authorized or the power.

(3) Despite an enactment specified under subsection (1), a regulation under subsection (1) (b) may establish requirements that must be imposed in issuing or amending a licence, approval, permit or other authorization under an enactment.

(4) Requirements imposed under subsection (3) are deemed to be imposed under the enactment under which the authorization is issued or amended.

(5) The issuance or amendment of a licence, approval, permit or other authorization contrary to a regulation under subsection (1) (b), or the exercise of a power contrary to a regulation under subsection (1) (c), has no effect.

Implementing a plan: restrictions on well drilling

66 (1) For the purposes of implementing a water management plan, the Lieutenant Governor in Council may, by regulation applicable to all or part of the designated area for the plan, restrict or prohibit one or more of the following:

- (a) the drilling of wells;
- (b) the alteration of wells;
- (c) the installation of well pumps;
- (d) the conduct of flow tests.

(2) In relation to a regulation under subsection (1), the Lieutenant Governor in Council may, by regulation, do one or more of the following:

- (a) prescribe exemptions from a requirement for a drilling authorization under section 81 [*drilling authorizations*];
- (b) prescribe requirements for the giving of notice respecting an application for a drilling authorization;
- (c) prescribe classes of persons who may appeal a decision respecting such an application under section 92 [*appeals to Environmental Appeal Board*].

Review and amendment of plans

67 The minister may, by order, direct that a current water management plan be reviewed to determine whether amendments should be made, and this Part applies to the review and to any amendment to the plan proposed by the review.

98 *The following Part is added:*

Part 5 -- Wells and Ground Water Protection

Definitions

68 In this Part and Part 6:

"**person responsible**" means, with respect to constructing a well, installing a well pump, conducting a flow test or closing a well,

- (a) if the activity is supervised by a qualified professional, that qualified professional,
- (b) if paragraph (a) does not apply and the activity is supervised or performed by a qualified well driller or a qualified well pump installer, that qualified well driller or qualified well pump installer,

(c) if neither paragraph (a) nor (b) applies, a person who performs the activity in the ordinary course of that person's business, and

(d) if none of paragraphs (a), (b) or (c) applies, the person on whose behalf the activity is performed;

"qualified professional" means

(a) a professional engineer, or

(b) a professional geoscientist

who is registered or licensed under the *Engineers and Geoscientists Act*;

"qualified well driller" means a person who has the prescribed qualifications;

"qualified well pump installer" means a person who has the prescribed qualifications;

"well" includes any casing, screen, drive shoe, packer, riser pipe, cap, valve, grout, liner and seal relating to a well.

Restrictions on constructing wells, closing wells and related activities

69 (1) This section applies to a person who

(a) constructs a well,

(b) closes a well,

(c) deactivates a well, or

(d) disinfects a well.

(2) Subject to section 70 [*restrictions respecting well pumps and flow tests*], a person referred to in subsection (1) must

(a) comply with the applicable regulations, and

(b) either

(i) be a qualified well driller, or

(ii) act under the direct supervision of

(A) a qualified well driller, or

(B) a qualified professional who has competency in the field of hydrogeology or geotechnical engineering.

(3) Subsection (2) (b) does not apply in respect of the following:

(a) a person

(i) excavating a well to a depth of not more than 15 m, or

(ii) performing an activity referred to in subsection (1) with respect to an excavated well that has a depth of not more than 15 m;

(b) a person deactivating or disinfecting a well owned by the person;

(c) a person constructing or closing a geotechnical well that is not a monitoring well, if the activity of constructing the well is not likely to disturb and does not disturb an aquifer;

(d) a prescribed

(i) class of person,

(ii) class of well,

(iii) activity or class of activity in relation to a prescribed work or class of works, or

(iv) activity including, without limitation, an activity prescribed by regulation as routine maintenance.

(4) A person performing an activity referred to in subsection (3) (c) or prescribed under subsection (3) (d) who disturbs an aquifer must stop performing that activity until he or she has complied with subsection (2) (b) and must take the steps recommended by the person described in that subsection.

Restrictions respecting well pumps and flow tests

70 (1) This section applies to a person who

(a) installs, maintains, repairs, or tests a well pump or a wellhead,

(b) conducts a flow test of a well, or

(c) disinfects a well or a well pump.

(2) A person referred to in subsection (1) must

(a) comply with the applicable regulations, and

(b) either

(i) be a qualified well pump installer or a qualified well driller, or

(ii) act under the direct supervision of

(A) a qualified well pump installer,

(B) a qualified well driller, or

(C) a qualified professional who has competency in the field of hydrogeology or geotechnical engineering.

(3) Subsection (2) (b) does not apply in respect of the following:

(a) a person installing a well pump in a monitoring well or a geotechnical well;

(b) a person disinfecting a well owned by the person;

(c) a prescribed

(i) class of person,

(ii) class of well or well pump,

(iii) activity or class of activity in relation to a prescribed work or class of works, or

(iv) activity including, without limitation, an activity prescribed by regulation as routine maintenance.

Qualified well drillers and qualified well pump installers

71 A person who is performing or directly supervising activities that under this Act must be performed or directly supervised by a qualified professional, a qualified well driller or a qualified well pump installer, must provide proof of their qualifications on the request of any of the following persons:

(a) the comptroller;

(b) the regional water manager;

(c) an engineer;

(d) an officer;

(e) a drinking water officer.

Well reports

72 (1) Subject to the regulations, a person responsible for

(a) constructing a well,

(b) installing a well pump,

(c) conducting a flow test of a well, or

(d) closing a well

must maintain a daily log containing the prescribed information and must complete a report in accordance with the regulations.

(2) The person referred to in subsection (1) must retain and produce at the request of an officer, an engineer or a drinking water officer the log and report required under subsection (1).

(3) A person who is required under subsection (1) to complete a report must submit a copy of the report in accordance with the regulations to

(a) the comptroller,

(b) the well owner, and

(c) if requested by the regional water manager, an engineer or a drinking water officer, that official.

(4) Subsection (3) does not apply in respect of a monitoring well, a geotechnical well or a well made for the purpose of ground water remediation.

Water analyses for new or altered wells

73 (1) A person responsible for drilling a well or making prescribed alterations to a well must, in accordance with the regulations,

(a) take or cause to be taken, and

(b) cause to be analyzed

a sample of the ground water in the well.

(2) If the ground water in a well is to be used for "domestic purposes" within the meaning of the *Drinking Water Protection Act*, the sampling and the analyses of the ground water must also comply with the requirements of that Act and the regulations under that Act.

(3) A person who is required to comply with subsection (1) or (2) must submit a copy of the results of the analyses to

(a) the comptroller,

(b) the well owner, and

(c) if requested by the regional water manager, an engineer or a drinking water officer, that official.

(4) This section does not apply to a person responsible in respect of a monitoring well, a geotechnical well or a well made for the purpose of ground water remediation.

Well identification

74 (1) In this section "**owner**" and "**water supply system**" have the same meanings as in the *Drinking Water Protection Act*.

(2) The following persons must attach an identification plate to a well or wellhead in accordance with the regulations:

(a) a person responsible for drilling a well or making a prescribed alteration to a well;

(b) unless a plate is attached under paragraph (a), the owner of a water supply system of a prescribed class.

(3) Subsection (2) does not apply in respect of a monitoring well, a geotechnical well or a well made for the purpose of ground water remediation.

(4) A person who is required to attach an identification plate under this section must submit a report in accordance with the regulations to

(a) the comptroller, and

(b) if requested by the regional water manager or an engineer, that official.

(5) A person who closes a well in accordance with section 69 [*restrictions on constructing wells, closing wells and related activities*] must remove the identification plate referred to in subsection (2) and submit it to the comptroller with the report

under section 72.

Closing or deactivating a well

75 (1) For the purposes of this section, a well is considered to be in service if

- (a) the well is used regularly or on a periodic basis, or
- (b) the well is kept active as a backup water supply.

(2) Despite subsection (1), a well is considered not in service

- (a) if it is not used for a prescribed period, which may be different for different circumstances, or
- (b) in prescribed circumstances.

(3) Subject to the regulations, if a well is not in service, the well owner must have the well deactivated or closed in accordance with section 69 [*restrictions on constructing wells, closing wells and related activities*].

(4) If a deactivated well is not in service for a prescribed period or if the owner does not intend to put a well in service or does not put a well in service for that prescribed period, the well owner must have the well closed in accordance with section 69 [*restrictions on constructing wells, closing wells and related activities*].

(5) If the owner of the land on which the well is located does not know who owns the well, the owner of the land must comply with subsections (3) and (4).

Well caps or well covers

76 (1) The following persons must secure a well cap or well cover on a well in accordance with the regulations:

- (a) the person who drills a well or makes a prescribed alteration to a well;
- (b) a person who owns a well that does not have a well cap or well cover secured on it.

(2) If the well owner does not comply with subsection (1) (b) and the owner of the land on which the well is located does not know who owns the well, the owner of the land must comply with subsection (1) (b).

(3) A person must not remove the well cap or well cover from a well except for the purpose of

- (a) inspecting, developing, disinfecting, maintaining, repairing or altering the well or inspecting, maintaining, repairing, replacing or altering works associated with the well,
- (b) installing, re-installing or testing a well pump,
- (c) testing the flow of a well,
- (d) taking a water sample, or
- (e) undertaking similar activities that require temporary removal of the well cap or well cover.

(4) A person who temporarily removes a well cap or well cover as authorized under subsection (3) must replace that cap or cover as soon as practicable after completing the work for which it was removed.

(5) A person must not destroy, injure or tamper with a well cap or well cover.

Controlling artesian flow

77 (1) If a qualified well driller or a qualified professional encounters artesian conditions while constructing a well or supervising the construction of a well, that person must ensure that

(a) any artesian flow is stopped or brought under control, or

(b) if the artesian well is likely to flow periodically, steps are taken to ensure that that artesian flow will be stopped or controlled.

(2) Any person who, while constructing a well, encounters

(a) flowing artesian conditions, or

(b) artesian conditions that indicate the artesian well is likely to flow periodically,

must engage a qualified well driller or a qualified professional, who must comply with subsection (1).

(3) If a qualified person referred to in subsection (1) or (2) takes steps to stop or control the artesian flow, that person must notify the well owner.

(4) If a person referred to in subsection (1) or (2) fails to comply with those subsections, the well owner must comply.

(5) The owner of a flowing artesian well must engage a qualified professional or a qualified well driller to ensure that the flow of that well is stopped or brought under control.

(6) If the well owner does not comply with subsection (5) and the owner of the land on which a flowing artesian well is located does not know who owns the well, the owner of the land must comply with subsection (5).

(7) A person responsible for stopping or controlling artesian flow under this section must stop or control that artesian flow in accordance with the regulations and any directions of an engineer.

Well operation

78 (1) A person must operate a well in accordance with the regulations and any directions of an engineer in respect of it.

(2) A person must not operate a well in a manner that causes or is likely to cause

(a) the intrusion of salt water or contaminated water into

(i) an aquifer from which that well draws ground water, or

(ii) any well that draws ground water from that aquifer, and

(b) a significant adverse impact on

(i) the quality of the ground water in that aquifer, or

(ii) the existing uses made of the ground water from any well that draws from that aquifer.

(3) Subsection (2) does not apply

(a) to a well made for the purpose of ground water remediation, or

(b) with respect to a prescribed activity in relation to a prescribed class of well.

(4) For the purposes of a prosecution under section 93 (3) (k) [*general offences*], it is not necessary to prove that the salt water or contaminated water, if diluted subsequent to the intrusion, continued to cause or to be likely to cause a significant adverse impact on the quality of the ground water in the aquifer or the existing uses made of the ground water from any well that draws from that aquifer.

Prohibition on introducing foreign matter into a well

79 (1) A person must not introduce, allow to be introduced or cause to be introduced any of the following into a well:

(a) refuse;

(b) carcasses;

(c) human or animal waste;

(d) pesticides or fertilizers;

(e) material, natural or otherwise, from construction or demolition;

(f) any other prescribed matter or substance;

(g) a contaminant, or a prescribed matter or substance, in such amounts or in such a manner as to cause or to be likely to cause a significant adverse impact on

(i) the quality of ground water in the well, or

(ii) the existing uses made of the ground water from the well.

(2) Subsection (1) does not apply with respect to

(a) a well owner in the proper operation, disinfection, maintenance, repair, deactivating or closing of a well in accordance with the regulations,

(b) a well made for the purpose of ground water remediation,

(c) activities authorized or required by or under an enactment,

(d) a prescribed activity undertaken in accordance with any conditions prescribed by regulation, or

(e) a prescribed contaminant, matter or substance.

(3) For the purposes of prosecuting a contravention of subsection (1) (g), it is not necessary to prove that the contaminant, matter or substance, if diluted subsequent to the introduction into the well, continued to cause or to be likely to cause a significant adverse impact on the quality of the ground water in the well or the uses made of the ground water from the well.

(4) An engineer may order a person

(a) to stop the introduction of,

(b) to remove, or

(c) to undertake measures, as directed by the engineer, to remediate or mitigate the effects of the introduction of any thing, contaminant, matter or substance introduced into a well contrary to subsection (1).

(5) If the engineer cannot ascertain who contravened subsection (1), the engineer may make an order under subsection (4) against the well owner.

(6) If the engineer cannot ascertain who contravened subsection (1) or who owns the well, the engineer may make an order under subsection (4) against the owner of the land on which the well is located.

(7) If a person who is subject to an order under subsection (4), (5) or (6) fails to comply with that order and the comptroller or regional water manager considers that that failure may result in harm or damage to ground water in the aquifer, the comptroller or regional water manager may authorize the government or another person, at the expense of the person who is subject to the order, to take the actions necessary to comply with that order.

(8) If work is carried out under subsection (7), the costs to the government are a debt due to the government by the person who is subject to the order under subsection (4), (5) or (6).

(9) This section does not limit the authority under section 86 [*power of comptroller if disobeyed*] or 88 [*powers of engineers and officers*].

Wells on Crown land

80 (1) Sections 75 [*closing or deactivating a well*], 76 [*well caps or well covers*], 77 [*controlling artesian flow*] and 79 [*prohibition on introducing foreign matter into a well*] do not apply to the government as the owner of land on which a well is located unless

(a) the well was drilled by or on behalf of the government, or

(b) the well was purchased by the government.

(2) If a person

(a) on or after the date this provision comes into force, has a right to use or occupy Crown land on which a well is constructed or located, and

(b) fails to comply with section 75 [*closing or deactivating a well*], 76 [*well caps or well covers*], 77 [*controlling artesian flow*] or 79 [*prohibition on introducing foreign matter into a well*],

the government may enforce the applicable provision against that person as if that person were the owner of the land on which the well is located, despite any subsequent termination of the right to use or occupy the land.

Drilling authorizations

81 (1) If a regulation under section 66 of this Act or under section 36 of the *Drinking Water Protection Act* imposes restrictions for an area in respect of

(a) drilling a well,

- (b) altering a well,
- (c) installing well pumps, or
- (d) conducting flow tests,

a person must not engage in that restricted activity in that area without a drilling authorization issued under this section.

(2) A person who requires a drilling authorization under subsection (1) must apply for the drilling authorization to the comptroller, the regional water manager or an engineer in accordance with the regulations.

(3) With respect to an application for a drilling authorization, the comptroller, the regional water manager or an engineer may do one or more of the following:

- (a) refuse the application;
- (b) amend the application in any respect;
- (c) grant all or part of the application;
- (d) require additional plans or other information;
- (e) require the applicant to give security for the purposes and in the amount and form the comptroller, the regional water manager or the engineer considers in the public interest;
- (f) issue a drilling authorization with the conditions the comptroller, the regional water manager or the engineer considers advisable.

(4) The comptroller, a regional water manager or an engineer, on the conditions that official considers advisable, may

- (a) amend a drilling authorization,
- (b) suspend a drilling authorization, or
- (c) cancel a drilling authorization.

(5) If an amendment to a drilling authorization would substantially change the drilling authorization, the comptroller, a regional water manager or an engineer may issue in substitution for it another drilling authorization on the conditions that official considers advisable.

(6) In considering an application under subsection (2), the comptroller, regional water manager or engineer must consider the water management plan or drinking water protection plan to which the regulation referred to in subsection (1) relates.

(7) The comptroller, the regional water manager or an engineer must not issue a drilling authorization unless

- (a) the applicant is the owner of the land on which the well and any works related to the well are or will be located, or
- (b) if the applicant is not the owner of the land on which the well or the works related to the well are or will be located, the applicant submits the prescribed evidence of the consent of the owner of the applicable land.

(8) A person to whom a drilling authorization is issued under subsection (3) must comply with the conditions contained in it and any applicable requirements of

(a) this Act and the regulations, or

(b) any other enactment.

(9) A drilling authorization may not be issued under this section for an activity that is prohibited by a regulation referred to in subsection (1).

Ground water advisory board

82 (1) The minister may establish a ground water advisory board to provide technical advice with respect to

(a) qualifications of qualified well drillers and qualified well pump installers,

(b) standards or codes in respect of

(i) constructing a well, siting a well or installing a well pump,

(ii) designing, testing, operating, disinfecting, floodproofing, capping or covering a well,

(iii) closing or deactivating a well,

(iv) removing works from a well,

(v) conducting a flow test of a well,

(vi) the design, construction, installation, testing, operation, alteration, maintenance, repair, disinfection or replacement of works relating to a well or ground water,

(vii) sampling and analyzing ground water for a new or altered well, or

(viii) stopping or controlling the flow of a flowing artesian well, and

(c) any matter related to ground water specified by the minister.

(2) The chair and members of the advisory board are to be appointed by the minister.

(3) A person appointed to the advisory board

(a) must be reimbursed in accordance with the directives of Treasury Board for reasonable travelling and out of pocket expenses necessarily incurred in discharging the person's duties under this Act, and

(b) may be paid remuneration in accordance with the directives of Treasury Board if the person is not an employee under the *Public Service Act*.

99 *The following Part is added:*

Part 6 -- General

Right of access to land and premises by authorized persons

83 (1) The comptroller, a regional manager, an engineer, officer or water bailiff under this Act or an officer or employee of a municipality, improvement district, development district, water users' community, or a holder of a licence that authorizes the

carriage or supply of water or electricity to the public has at all times a free right of entry and exit on, in and over any land and premises so far as is necessary in the discharge of the person's duties or in the exercise of the person's rights.

(2) This section also applies to a person working under the direction of the comptroller, the regional water manager or an engineer.

(3) The authority under subsection (1) must not be used to enter into a private dwelling except with the consent of the occupant or as authorized by a warrant issued under this or another Act.

Entry warrant

84 If satisfied by evidence on oath or affirmation that entry on or into land or premises is necessary for the purposes of this Act, a justice may issue a warrant authorizing any of the following persons to enter on or into that land or those premises:

- (a) the comptroller, a regional water manager, an engineer or an officer;
- (b) a person authorized by the comptroller or a regional water manager to carry out an order made under this Act;
- (c) a person responsible for preparing a proposed water management plan.

Powers of comptroller and regional water manager

85 (1) In addition to the other powers given under this Act and the regulations, the comptroller may at any time do any act or thing that a regional water manager, engineer or officer is empowered to do under this Act or the regulations.

(2) In addition to the other powers given under this Act and the regulations, a regional water manager may at any time do any act or thing that an engineer or officer is empowered to do under this Act or the regulations.

Power of comptroller if disobeyed

86 (1) If a person to whom an order of the comptroller, a regional water manager or an engineer is directed fails to do the things ordered, the comptroller may authorize another person to do those things.

(2) Any expense incurred in the exercise of an authorization provided under subsection (1) may be recovered in any court from the person to whom the order was directed as money paid for, and at the request of, that person.

(3) In an action referred to in subsection (2), the comptroller's certificate as to the amount of the expense is conclusive evidence of it.

(4) If the comptroller considers that it is in the public interest to remove any works, the comptroller may authorize that they be removed at the expense of the government.

(5) Money required under subsection (4) must be paid out of the consolidated revenue fund.

(6) The government may collect money spent under subsection (4) as if the works had been removed under subsection (1).

(7) A person authorized by the comptroller under this section may enter onto land and premises at any reasonable time and may take with him or her any other persons or equipment as may be necessary for the purpose of doing the things that he or she is authorized to do.

(8) The authority under subsection (7) must not be used to enter into a private dwelling except with the consent of the occupant or as authorized by a warrant issued under this or another Act.

Power to amend or revoke order

87 (1) The comptroller, at any time on notice, may amend or revoke any order of the comptroller, a regional water manager, an engineer, an officer, the Water Board or the Board of Investigation.

(2) A regional water manager, at any time on notice, may amend or revoke any order of a regional water manager, an engineer or an officer.

(3) An engineer, at any time on notice, may amend or revoke any order of an engineer or an officer.

Powers of engineers and officers

88 (1) In addition to all other powers given under this Act and the regulations, an engineer may do one or more of the following:

- (a) inspect, regulate, close or lock any works;
- (b) inspect and regulate the construction of any works;
- (c) determine what constitutes beneficial use of water;
- (d) order the alteration, installation, replacement, repair, maintenance, improvement, sealing, closure or removal of, or the addition to, any works;
- (e) order the restoration or remediation of any changes in and about a stream;
- (f) order the construction, installation and maintenance of any measuring or testing device;
- (g) order the operation of, and provision of data from, a measuring or testing device;
- (h) regulate, in person or through an officer or a water bailiff, and make orders with respect to the diversion, rate of diversion, time of diversion, storage, time of storage, carriage, distribution and use of water;
- (i) determine the allowances of water to offset evaporation, seepage and other losses;
- (j) order the release of stored or impounded water that the engineer considers a danger to life and property;
- (k) order a person to cease putting or not to put any sawdust, timber, tailings, gravel, refuse, carcass or other thing or substance into a stream;
- (l) order a person to remove from a stream any substance or thing that the person has put or permitted to get into the stream;
- (m) install measuring or testing devices;
- (n) take measurements of or test
 - (i) water in a stream or ground water,
 - (ii) the flow of water in a stream or ground water, or
 - (iii) works;

(o) order a change in the operation of a well that is being operated contrary to section 78 [*well operation*] and give directions respecting the operation of the well;

(p) if a well has been operated or used contrary to section 78 [*well operation*] or 79 [*prohibition on introducing foreign matter into a well*], order a person to remediate or mitigate the impact on an aquifer or ground water and give directions respecting the remediation;

(q) order a person to remediate or mitigate any impact on the aquifer or ground water that results because a well was sited, constructed or floodproofed in contravention of this Act or the regulations.

(2) An order under subsection (1) may be made subject to any conditions the engineer considers advisable.

(3) Subject to the direction of an engineer, an officer may do one or more of the following:

(a) regulate, close or lock any works;

(b) regulate the construction of any works;

(c) regulate, in person or through a water bailiff, the diversion, rate of diversion, time of diversion, storage, time of storage, carriage, distribution and use of water;

(d) install measuring or testing devices;

(e) take measurements of or test

(i) water in a stream or ground water,

(ii) the flow of water in a stream or ground water, or

(iii) works.

(4) An officer may inspect works, the construction of works, an existing or proposed water use, any activity or changes in and about a stream, and any records related to the works, construction, use, activity or changes.

Power to summon witnesses

89 If it appears to the comptroller, a regional water manager or an engineer that the proper determination of a matter within his or her jurisdiction requires a public or other inquiry, he or she may hold that inquiry, and for that purpose has the power, privileges and protection of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Protection of officials

90 (1) No action for damages lies or may be brought against the comptroller or a regional water manager, engineer, officer, registrar, water recorder, water bailiff, arbitrator or person authorized under section 12.1 (6) for anything done or omitted

(a) in the performance or intended performance of any duty under this Act, or

(b) in the exercise or intended exercise of any power under this Act,

unless the person was acting in bad faith.

(2) Subsection (1) does not absolve the government from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

Restriction on proceedings respecting decisions under the Act

91 Except as otherwise provided in this Act, a hearing, investigation, proceeding or order of the Lieutenant Governor in Council, the comptroller, a regional water manager, a water recorder or an engineer must not be questioned, reviewed or restrained by injunction, a proceeding in the nature of prohibition or other process or proceeding in any court, or be removed by a proceeding in the nature of certiorari or otherwise into any court, except for excess or want of jurisdiction.

Appeals to Environmental Appeal Board

92 (1) Subject to subsections (2) and (3), an order of the comptroller, the regional water manager or an engineer may be appealed to the appeal board by

- (a) the person who is subject to the order,
- (b) an owner whose land is or is likely to be physically affected by the order, or
- (c) a licensee, riparian owner or applicant for a licence who considers that their rights are or will be prejudiced by the order.

(2) An order of the comptroller, the regional water manager or an engineer under Part 5 or 6 in relation to a well, works related to a well, ground water or an aquifer may be appealed to the appeal board by

- (a) the person who is subject to the order,
- (b) the well owner, or
- (c) the owner of the land on which the well is located.

(3) An order of the comptroller, the regional water manager or an engineer under section 81 [*drilling authorizations*] may be appealed to the appeal board by

- (a) the person who is subject to the order,
- (b) the well owner,
- (c) the owner of the land on which the well is located, or
- (d) a person in a class prescribed in respect of the water management plan or drinking water protection plan for the applicable area.

(4) The time limit for commencing an appeal is 30 days after notice of the order being appealed is given

- (a) to the person subject to the order, or
- (b) in accordance with the regulations.

(5) For the purposes of an appeal, if a notice under this Act is sent by registered mail to the last known address of a person, the notice is conclusively deemed to be served on the person to whom it is addressed on

- (a) the 14th day after the notice was deposited with Canada Post, or
- (b) the date on which the notice was actually received by the person, whether by mail or otherwise,

whichever is earlier.

(6) An appeal under this section

(a) must be commenced by notice of appeal in accordance with the practice, procedure and forms prescribed by regulation under the *Environment Management Act*, and

(b) subject to this Act, must be conducted in accordance with the *Environment Management Act* and the regulations under that Act.

(7) The appeal board may conduct an appeal by way of a new hearing.

(8) On an appeal, the appeal board may

(a) send the matter back to the comptroller, regional water manager or engineer, with directions,

(b) confirm, reverse or vary the order being appealed, or

(c) make any order that the person whose order is appealed could have made and that the board considers appropriate in the circumstances.

(9) An appeal does not act as a stay or suspend the operation of the order being appealed unless the appeal board orders otherwise.

General offences

93 (1) Sections 4 and 5 of the *Offence Act* do not apply to this Act or the regulations.

(2) A person who does any of the following commits an offence:

(a) willfully hinders, interrupts or causes or procures to be hindered or interrupted,

(i) a licensee,

(ii) a holder of a drilling authorization, or

(iii) the managers, contractors, servants, agents, or workers of a person referred to in subparagraph (i) or (ii),

in the lawful exercise of a right granted under this Act or the regulations or under a licence, approval or drilling authorization;

(b) without lawful authority, willfully destroys, damages or interferes with the works of

(i) a licensee,

(ii) a person who has obtained an approval,

(iii) the holder of a drilling authorization, or

(iv) a person who has constructed the works in accordance with the regulations;

(c) opens or closes without authority a hydrant used for fire protection, or obstructs free access to or damages a hydrant stop cock or hydrant accessory;

(d) without authority from the comptroller, an engineer or the licensee,

(i) lays or causes to be laid a pipe, or

(ii) constructs or causes to be constructed a ditch or other conduit

to connect with the works of a licensee;

(e) destroys, injures or tampers with

(i) works, or

(ii) a gauge, weir, measuring device, structure, appliance, cable, boat, instrument or tool

belonging to or placed in position by an applicant, licensee or official of Canada or of British Columbia;

(f) engages in the business of operating works to carry water, other than ground water, for others without holding a licence or other authority issued in that regard under this or a former Act;

(g) willfully interferes with a headgate, ditch, controlling works or any other works that an engineer, officer or water bailiff has regulated;

(h) willfully destroys a notice posted by an applicant, engineer, officer or water bailiff;

(i) constructs, maintains, operates or uses works without authority;

(j) puts into a stream any sawdust, timber, tailings, gravel, refuse, carcass or other thing or substance after having been ordered by the engineer or water recorder not to do so;

(k) diverts water from a stream without authority;

(l) diverts more water from a stream than the person is lawfully entitled to divert;

(m) diverts water that the person does not use beneficially;

(n) uses water when the person is not lawfully entitled to do so;

(o) uses water or permits water to be used on the person's land during a time the person is ordered to cease the diversion of water or after the works of the person have been closed or ordered closed;

(p) fails to do an act or thing required to be done by the person under this Act or under an order of the comptroller, regional water manager, engineer or officer;

(q) makes changes in and about a stream without lawful authority;

(r) breaches the regulations or a term or condition of a licence, an approval, a permit or a drilling authorization, other than in relation to a condition established under section 5 or 6 of the *Fish Protection Act*;

(s) willfully makes a material misstatement or misrepresentation in a declaration under section 22.01;

(t) carries, supplies, conveys or transports water diverted from a stream without being authorized to divert, extract, use or store water from that stream, unless acting as agent for a person so authorized;

(u) contravenes section 4;

(v) fails to provide proof of qualifications as required under section 71 [*qualified well drillers and qualified well pump installers*];

(w) destroys, injures or tampers with any works related to ground water or a well or an identification plate for a well;

(x) constructs a well, closes a well or deactivates or disinfects a well without having qualifications as required under this Act;

(y) constructs a well, closes a well or deactivates or disinfects a well in contravention of any requirements of this Act or the regulations;

(z) willfully fails to stop constructing a well when required to do so under section 69 (4) [*restrictions on constructing wells, closing wells and related activities*].

(3) A person who does any of the following commits an offence:

(a) installs, maintains, repairs or tests a well pump or wellhead, or conducts a flow test of a well, without having qualifications as required under this Act;

(b) installs, maintains, repairs or tests a well pump or wellhead, or conducts a flow test of a well, in contravention of any requirements of this Act or the regulations;

(c) tampers with a ground water sample required under section 73 [*water analyses for new or altered wells*];

(d) fails to take or cause to be taken or analyzed a ground water sample, or fails to submit the results of the analyses, in accordance with the requirements of the Act or the regulations;

(e) sites or floodproofs a well in contravention of any requirements of this Act or the regulations;

(f) fails to attach a well identification plate or remove and return an identification plate in accordance with the Act or the regulations;

(g) fails to deactivate or close a well when required under section 75 [*closing or deactivating a well*];

(h) fails to secure a well cap or well cover in accordance with the requirements of the Act or the regulations or fails to replace a well cap or well cover when required to do so under section 76 [*well caps and well covers*];

(i) fails to stop or bring the flow of a flowing artesian well under control or fails to take steps to stop or control an artesian well that is likely to flow periodically;

(j) operates a well in contravention of any requirements of this Act or the regulations;

(k) operates a well contrary to section 78 [*well operation*];

(l) willfully

(i) submits a false or misleading log, record, report, form or return, or

(ii) records false or misleading information

required to be submitted or recorded under this Act or the regulations;

(m) fails to submit, produce or retain a log, record, report, form or return required to be submitted, produced or retained under this Act;

(n) fails to obtain a drilling authorization when required to do so under section 81.

(4) A person who commits an offence under this section is liable on conviction to the following:

(a) in the case of an offence that is not a continuing offence, a fine of not more than \$200 000 or imprisonment for not longer than 6 months, or both;

(b) in the case of a continuing offence, a fine of not more than \$200 000 for each day the offence is continued or imprisonment for not longer than 6 months, or both.

High penalty offences

94 (1) A person who does any of the following commits an offence:

(a) constructs a bank to bank dam on a protected river contrary to section 4 (3) of the *Fish Protection Act*;

(b) contravenes an order of the minister under section 9 (2) of the *Fish Protection Act*;

(c) breaches a term or condition of a licence, an approval or the regulations in relation to a condition established under section 5 or 6 of the *Fish Protection Act*;

(d) introduces, or causes or allows to be introduced, debris into a stream, stream channel or area adjacent to a stream contrary to section 40.1 (1) [*debris in stream*];

(e) introduces, or causes or allows to be introduced, into a well anything contrary to section 79 [*prohibition on introducing foreign matter into a well*];

(f) molests, interferes with, delays, obstructs or otherwise impedes the comptroller, the regional water manager or an engineer, water bailiff or other officer in the discharge or performance of a duty or the exercise of an authority under this Act;

(g) places, maintains or makes use of an obstruction in the channel of a stream without authority;

(h) willfully contravenes this Act or an order of the comptroller, a regional water manager, an engineer or an officer;

(i) drills a well, makes a prescribed alteration to a well, installs a well pump or conducts a flow test of a well when prohibited.

(2) A person who commits an offence under this section is liable on conviction to the following:

(a) in the case of an offence that is not a continuing offence, a fine of not more than \$1 000 000 or imprisonment for not longer than 1 year, or both;

(b) in the case of a continuing offence, a fine of not more than \$1 000 000 for each day the offence is continued or imprisonment for not longer than 1 year, or both.

Creative sentencing

95 (1) If a person is convicted of an offence under this Act, in addition to any punishment imposed, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

- (a) prohibiting the person from doing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that resulted or may result from the commission of the offence;
- (c) directing the person to pay the government an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the government as a result of the commission of the offence;
- (d) directing the person to perform community service;
- (e) directing the person to pay Fisheries Renewal BC or the Habitat Conservation Trust Fund an amount of money the court considers appropriate;
- (f) directing the person to post a bond or pay into court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section;
- (g) directing the person to submit to the minister, on application by the minister within 3 years after the date of the conviction, any information respecting the activities of the person that the court considers appropriate in the circumstances;
- (h) directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence;
- (i) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences under this Act.

(2) The person against whom an order under subsection (1) was made, or the Attorney General, may apply to the court that made the original order for a variation.

(3) Before hearing an application under subsection (2), the court may order the applicant to give notice of the application in accordance with the directions of the court.

(4) On an application under subsection (2), if the court considers variation appropriate because of a change in the circumstances, the court may make an order doing one or more of the following:

- (a) changing the original order or any conditions specified in it;
- (b) relieving the person against whom the order was made absolutely or partially from compliance with all or part of the original order;
- (c) reducing the period for which the original order is to remain in effect;
- (d) extending the period for which the original order is to remain in effect, subject to the limit that this extension must

not be longer than one year.

(5) If an application under subsection (2) has been heard by a court, no other application may be made in respect of the original order, or the order as varied under subsection (2), except with leave of the court.

(6) If a person fails to comply with an order referred to in subsection (1) (h) directing the person to publish the facts relating to the commission of an offence, the minister may publish those facts and recover the costs of publication from the person.

(7) If

(a) an order under this section directs a person to pay an amount of money as compensation or for any other purpose, or

(b) the minister incurs publication costs under subsection (6),

the amount and any interest payable on that amount constitute a debt due to the government and may be recovered as such in any court of competent jurisdiction.

Breach of creative sentencing order

96 (1) A person who contravenes an order under section 95 [*creative sentencing*] commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to the penalties provided for the offence in relation to which the order under section 95 was made.

Liability of individuals for offences committed by a corporation

97 If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence whether or not the corporation is prosecuted for the offence.

Time limit for prosecutions

98 (1) The time limit for laying an information respecting an offence under this Act or the regulations is 2 years after the facts on which the information is based first came to the knowledge of

(a) the minister, or

(b) a person designated, by name or title, by the minister for that purpose.

(2) A document purporting to have been issued by the minister or a person designated under subsection (1) (b), certifying the day on which he or she became aware of the facts on which an information is based,

(a) is admissible without proof of the signature or official character of the individual appearing to have signed the document, and

(b) in the absence of evidence to the contrary, is proof of the matter certified.

Other liabilities remain

99 A proceeding, conviction or penalty for an offence under this Act or the regulations does not relieve a person from any other liability.

Fees, rentals and charges

100 (1) The Lieutenant Governor in Council may, by regulation, establish a tariff of the fees, rentals and charges payable

(a) in respect of applications, petitions, claims, complaints, proceedings, licences, approvals, permits, drilling authorizations and other things filed, applied for, taken or issued under this or any former Act, and

(b) in respect of water diverted or used from a stream, whether diverted under authority of a licence or under a special or private Act or without authority.

(2) Each of the following is liable to the government for the fees, rentals and charges in respect of the application, petition, claim, complaint, proceeding, licence, approval, permit, drilling authorization, thing or water:

(a) an applicant, petitioner, claimant, complainant and other person who files an application, petition, claim or complaint, or takes a proceeding under this Act;

(b) a person holding a licence, approval, permit or drilling authorization;

(c) a person who diverts or uses water from a stream.

(3) The fees, rentals and charges must be paid to the comptroller and may be recovered by the comptroller by suit in a court of competent jurisdiction.

(4) The tariff may set the times of payment of fees, rentals and charges and make them subject to the imposition of interest at a prescribed rate and specified percentage additions on or from specified dates, and a tariff or part of it may be made retrospective to the extent of making it applicable from the beginning of the year in which it is established.

(5) The payment by a person or the acceptance by the comptroller of any rental in respect of a licence, approval or permit does not prevent or delay the cancellation of the licence, approval or permit on any ground except failure to pay rentals.

Power to make regulations

101 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) dividing British Columbia into water districts;

(b) prescribing the powers, duties and jurisdiction of officials administering this Act;

(c) prescribing the purposes or classes of artificial openings in the ground that are not included in the definition of "well";

(d) specifying how notice of a decision may be given for the purposes of section 92 (4) (b) [*appeals to Environmental Appeal Board*];

(e) defining words or phrases used but not defined in the Act;

(f) respecting any matter for which regulations are contemplated by the Act.

(3) Without limiting subsection (1) or (2), the Lieutenant Governor in Council may make regulations for the purposes of Part 2 or 3, subject to a regulation under section 1.1, in respect of the following:

(a) the issue of permits authorizing the occupation of Crown land and the terms of those permits;

- (b) the procedure to be followed in expropriating land and easements, the method of determining the compensation to be paid for an expropriation and the powers and duties of arbitrators or the Expropriation Compensation Board with respect to expropriations under this Act;
- (c) the use of a stream for floating timber and the construction, maintenance, operation, alteration and removal of booms and other installations in the stream, and the duties and obligations of persons who float timber in a stream with respect to the segregation and sorting of the timber;
- (d) the use, construction, maintenance, operation, alteration, abandonment and removal of any works;
- (e) the commencement, continuation or cessation of any activity that causes or allows to be caused any changes in and about a stream;
- (f) the duties and obligations of persons who undertake any works or changes in and about a stream;
- (g) the records that must be kept for the purpose of section 22;
- (h) designating the uses of water for the purpose of the definition of "industrial purpose" in section 1;
- (i) the requirements that must be met in relation to applications under this Act, which may be different for applications that may be accepted for filing under section 12.1 than for applications dealt with in accordance with otherwise applicable procedures under this Act;
- (j) prescribing for the purposes of section 40.1 (2) [*prohibition against introducing debris into stream*] other activities that, in the opinion of the Lieutenant Governor in Council, are regulated under this Act or another enactment in relation to the introduction of debris into streams.

(4) Without limiting subsection (1) or (2), the Lieutenant Governor in Council may make regulations for the purposes of Part 5 as follows:

- (a) establishing the qualifications of qualified well drillers and qualified well pump installers;
- (b) exempting from the requirements of section 69 (2) (b)
 - (i) a class of person,
 - (ii) a class of well,
 - (iii) an activity or class of activity in relation to a specified work or class of works, or
 - (iv) an activity or class of activity;
- (c) exempting from the requirements of section 70 (2) (b)
 - (i) a class of person,
 - (ii) a class of well or well pump,
 - (iii) an activity or class of activity in relation to a specified work or class of works, or
 - (iv) an activity or class of activity;

(d) establishing requirements, procedures, standards or codes in respect of any aspect of the following:

- (i) siting wells;
- (ii) constructing wells;
- (iii) installing well pumps;
- (iv) designing, testing, operating, disinfecting, floodproofing, capping or covering wells;
- (v) closing or deactivating wells;
- (vi) removing works from wells;
- (vii) conducting flow tests of wells;
- (viii) works, including the design, construction, installation, testing, operation, alteration, maintenance, repair, disinfection or replacement of works relating to the use, testing or monitoring of wells and ground water;
- (ix) sampling and analyzing ground water for new or altered wells including, without limitation, specifying
 - (A) the class of the laboratory that may carry out the analyses,
 - (B) the nature of the analyses, and
 - (C) alterations to a well that require sampling and analyzing of ground water;
- (x) stopping or controlling the flow of flowing artesian wells;
- (xi) any other activities respecting wells for which the Lieutenant Governor in Council considers it necessary or advisable for purposes of the protection of an aquifer or ground water to establish requirements, procedures, standards or codes;

(e) identifying wells, including, without limitation, specifying

- (i) the form, content, placement and manner of attachment of identification plates,
- (ii) alterations to a well that require that an identification plate be attached, and
- (iii) classes of water supply systems that must have an identification plate attached;

(f) respecting well reports and logs, including, without limitation, specifying

- (i) the information required,
- (ii) the form of logs, records and reports,
- (iii) the frequency and timing of reports,
- (iv) activities in relation to a well that require that a well report be submitted, and
- (v) the manner of delivering well reports to the comptroller;

- (g) specifying when and where logs, records and reports must be kept and produced;
 - (h) respecting drilling authorizations, including, without limitation,
 - (i) specifying the form, content and manner of application,
 - (ii) specifying the evidence that may be accepted as proof of consent of a land owner, and
 - (iii) delegating to the comptroller, the regional water manager or an engineer the authority to set terms and conditions on a drilling authorization;
 - (i) establishing the periods of time after which a well that is not being used
 - (i) is considered not to be in service, which may be different in specified circumstances, or
 - (ii) must be permanently closed;
 - (j) specifying the circumstances in which a well is considered not to be in service;
 - (k) establishing a register of qualified well drillers or qualified well pump installers, including, without limitation, specifying
 - (i) the person responsible for the registers,
 - (ii) the information that qualified well drillers or qualified well pump installers must provide to that person, and
 - (iii) that the registers are available to the public;
 - (l) establishing requirements for the protection of an aquifer from activities that are capable of causing a significant adverse impact on
 - (i) the quality of ground water in an aquifer, water in a stream that is recharged by the aquifer or ground water in a well that draws from the aquifer, or
 - (ii) the existing uses made of ground water from any well that draws from that aquifer or water in a stream that is recharged by that aquifer;
 - (m) exempting specified activities in relation to specified classes of wells from the prohibition under section 78 (2) [*well operation*];
 - (n) prescribing matters or substances for the purposes of section 79 (1) (f) or (g) [*prohibition on introducing foreign matter into a well*];
 - (o) exempting activities, with or without conditions, contaminants, matters and substances from the prohibition under section 79 (1) [*prohibition on introducing foreign matter into a well*].
- (5) A regulation under this Act may do one or more of the following:
- (a) specify who is responsible for meeting the prescribed requirements;
 - (b) exempt any class of persons, including the Crown, any class of wells, works or activities, or any circumstances, times or periods from any requirements;

(c) provide different requirements for different activities or classes of activities in relation to ground water and for different classes of persons, wells or works;

(d) provide different requirements for different areas of British Columbia, which may be designated by any delineation of the area that adequately describes it including, for example, name, map, plan, legal description, reference to a stream, reference to an aquifer or other geological formation or part of one, depth or other dimension, or by any combination of methods.

(6) A regulation under subsection (4) (d) may provide authority for individual variations on application to a prescribed official.

(7) Regulations made under this section may

(a) adopt, in whole or in part, codes or standards published by a provincial, national or international standards association, including adoption of amendments to the codes or standards published before or after the making of the regulations,

(b) in adopting the codes or standards under paragraph (a), grant powers to and establish functions and duties of officials that the Lieutenant Governor in Council deems necessary for the official to administer the codes or standards adopted, and

(c) exempt persons or classes of persons from all or part of the codes or standards adopted.

(8) In making a regulation under this Act, the Lieutenant Governor in Council may delegate a matter to a person and confer a discretionary power on the comptroller, a regional water manager, an engineer or an officer.

100 Section 88 is amended

(a) by repealing subsection (1) (k) and substituting the following:

(k) order a person to cease putting or not to put any debris, sawdust, timber, tailings, refuse, carcass or other thing or substance into a stream; , ***and***

(b) in subsection (3) by adding the following paragraph:

(f) order a person to cease putting or not to put any debris, sawdust, timber, tailings, refuse, carcass or other thing or substance into a stream.

101 Section 93 (2) is amended by repealing paragraph (j) and substituting the following:

(j) puts into a stream any debris, sawdust, timber, tailings, refuse, carcass or other thing or substance after having been ordered by an engineer or officer not to do so; .

Water Utility Act

102 Section 1 of the Water Utility Act, R.S.B.C. 1996, c. 485, is amended in the definition of "water utility"

(a) by repealing paragraph (a) and substituting the following:

(a) a person who owns or operates in British Columbia equipment or facilities for the diverting, developing, pumping, impounding, distributing or furnishing of water, for compensation,

(i) to or for more than the prescribed number of persons or, if no number is prescribed, 5 or more persons, or

(ii) to a corporation, and , *and*

(b) by striking out "or" at the end of paragraph (h), by adding ", or" at the end of paragraph (i) and by adding the following paragraph:

(j) a strata corporation, if the comptroller is satisfied that the owner developers within the meaning of the *Strata Property Act* have ceased to own a majority of the strata lots in the strata plan.

103 The following section is added:

Regulations

6 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) prescribing a number for the purposes of paragraph (a) of the definition of "water utility";

(b) for the purpose of recovering the expenses arising out of the administration of this Act, prescribing fees, levies or other charges payable by water utilities and other persons;

(c) exempting, or authorizing the comptroller to exempt, a water utility or other person, or a class of either of them, from the payment of a fee, levy or other charge.

(3) Fees, levies and charges prescribed under this section may be different for different classes of water utility, different water utilities and different classes of persons.

Transitional regulations

104 (1) The Lieutenant Governor in Council may make regulations the Lieutenant Governor in Council considers necessary or advisable to more effectively bring this Act into operation, including

(a) regulations for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties encountered in bringing into operation amendments made by this Act to another Act, and

(b) regulations providing an exception to or a modification of a provision in this Act or another Act or a regulation under this Act or another Act.

(2) A regulation under subsection (1) may be made effective retroactively to a date on or after the date on which this Act receives Royal Assent.

(3) The Lieutenant Governor in Council may, by regulation, repeal any provision of this Act that repeals or amends a provision of the *Fish Protection Act* if that provision of the *Fish Protection Act* is brought into force before the provision under this Act that repeals or amends it is brought into force.

Commencement

105 Sections 1 to 53, 55 to 66, 69, 74 and 83 to 101 come into force by regulation of the Lieutenant Governor in Council.

[*Return to:* [Legislative Assembly Home Page](#)]

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