

# Endangered Species Act, 2007

## Preamble

Biological diversity is among the great treasures of our planet. It has ecological, social, economic, cultural and intrinsic value. Biological diversity makes many essential contributions to human life, including foods, clothing and medicines, and is an important part of sustainable social and economic development.

Unfortunately, throughout the world, species of animals, plants and other organisms are being lost forever at an alarming rate. The loss of these species is most often due to human activities, especially activities that damage the habitats of these species. Global action is required.

The United Nations Convention on Biological Diversity takes note of the precautionary principle, which, as described in the Convention, states that, where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.

In Ontario, our native species are a vital component of our precious natural heritage. The people of Ontario wish to do their part in protecting species that are at risk, with appropriate regard to social, economic and cultural considerations. The present generation of Ontarians should protect species at risk for future generations.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## INTRODUCTION

### Purposes

1. The purposes of this Act are:

1. To identify species at risk based on the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge.
2. To protect species that are at risk and their habitats, and to promote the recovery of species that are at risk.
3. To promote stewardship activities to assist in the protection and recovery of species that are at risk. 2007, c. 6, s. 1.

### Definitions

2. (1) In this Act,

“aboriginal person” means a member of the aboriginal peoples of Canada, as defined in section 35 of the *Constitution Act, 1982*; (“personne autochtone”)

“Agency” means the corporation established by regulation under section 20.4; (“Agence”)

“conservation fund species” means a species that is designated under subsection 20.1 (3) for the purposes of the Fund; (“espèce ciblée par le fonds de conservation”)

“COSSARO” means the Committee on the Status of Species at Risk in Ontario; (“CDSEPO”)

“enforcement officer” means an enforcement officer under section 21; (“agent d’exécution”)

“Fund” means the Species at Risk Conservation Fund established under section 20.1; (“Fonds”)

“habitat” means,

- (a) with respect to a species of animal, plant or other organism for which a regulation made under ~~clause 55 (1) (a)~~ clause 56 (1) (a) is in force, the area prescribed by that regulation as the habitat of the species, or
- (b) with respect to any other species of animal, plant or other organism, an area on which the species depends, directly or indirectly, to carry on its life processes, including life processes such as reproduction, rearing, hibernation, migration or feeding,

and includes places in the area described in clause (a) or (b), whichever is applicable, that are used by members of the species as dens, nests, hibernacula or other residences; (“habitat”)

“justice” has the same meaning as in the *Provincial Offences Act*; (“juge”)

“Minister” means the ~~Minister of Natural Resources~~ Minister of the Environment, Conservation and Parks or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“officer in charge” has the same meaning as in Part VIII of the *Provincial Offences Act*; (“agent responsable”)

“operating agreement” means an operating agreement entered into by the Minister and the Agency under section 20.11; (“accord de fonctionnement”)

“person” includes an unincorporated body referred to in paragraph 1, 2 or 3 of subsection 19 (1); (“personne”)

“recovery strategy” means a strategy prepared under section 11 for the recovery of a species; (“programme de rétablissement”)

“regulations” means the regulations made under this Act; (“règlements”)

“species” means a species, subspecies, variety or genetically or geographically distinct population of animal, plant or other organism, other than a bacterium or virus, that is native to Ontario; (“espèce”)

“Species at Risk in Ontario List” means the regulations made under section 7. (“Liste des espèces en péril en Ontario”) 2007, c. 6, s. 2 (1).

“species conservation charge” means a charge that is paid to the Agency in accordance with section 20.3; (“redevance pour la conservation des espèces”)

#### **Definition of “habitat”, cl. (b)**

(2) For greater certainty, clause (b) of the definition of “habitat” in subsection (1) does not include an area where the species formerly occurred or has the potential to be reintroduced unless existing members of the species depend on that area to carry on their life processes. 2007, c. 6, s. 2 (2).

#### **First time listing**

(3) For greater certainty, a reference in this Act to a species being listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time is a reference to a species being so listed in circumstances where the species has not been previously listed as either an endangered species or a threatened species.

## CLASSIFICATION OF SPECIES

#### **Committee on the Status of Species at Risk in Ontario**

**3.** (1) The committee known in English as the Committee on the Status of Species at Risk in Ontario and in French as Comité de détermination du statut des espèces en péril en Ontario is continued. 2007, c. 6, s. 3 (1).

#### **Composition**

(2) COSSARO shall be composed of such number of members as may be appointed by the Lieutenant Governor in Council. 2007, c. 6, s. 3 (2).

#### **Chair**

(3) The Lieutenant Governor in Council shall designate one of the members as chair of COSSARO. 2007, c. 6, s. 3 (3).

#### **Qualifications**

(4) A person may be appointed to COSSARO only if the Minister considers that the person has relevant expertise that is drawn from,

~~—(a) a scientific discipline such as conservation biology, population dynamics, taxonomy, systematics or genetics; or~~

~~—(b) aboriginal traditional knowledge. 2007, c. 6, s. 3 (4).~~

(a) a scientific discipline such as conservation biology, ecology, genetics, population dynamics, taxonomy, systematics or wildlife management; or

(b) community knowledge or aboriginal traditional knowledge.

#### **Independence**

(5) The members of COSSARO shall perform their functions in an independent manner, and not as representatives of their employers or of any other person or body. 2007, c. 6, s. 3 (5).

#### **Lobbying**

- (6) A member of COSSARO shall not, with respect to any matter related to this Act,
- (a) act as a consultant lobbyist within the meaning of subsection 4 (10) of the *Lobbyist Registration Act, 1998*; or
  - (b) act as an in-house lobbyist within the meaning of subsection 5 (7) or 6 (5) of the *Lobbyist Registration Act, 1998*. 2007, c. 6, s. 3 (6).

#### **Functions of COSSARO**

4. (1) COSSARO shall perform the following functions:
1. Subject to section 5, maintain criteria for assessing and classifying species.
  2. Maintain and prioritize a list of species that should be assessed and classified, including species that should be reviewed and, if appropriate, reclassified.
  3. Subject to section 8, assess, review and classify species in accordance with the list maintained under paragraph 2.
  4. Submit reports to the Minister in accordance with this Act.
  5. Provide advice to the Minister on any matter submitted to COSSARO by the Minister.
  6. Perform any other function required under this or any other Act. 2007, c. 6, s. 4 (1).

#### **List of species to be assessed**

- (2) COSSARO shall ensure that the list referred to in paragraph 2 of subsection (1) includes every Ontario species that,
- (a) has been classified by the Committee on the Status of Endangered Wildlife in Canada as extirpated, endangered, threatened or of special concern under the *Species at Risk Act* (Canada); and
  - (b) has not yet been assessed by COSSARO. 2007, c. 6, s. 4 (2).

#### **Information for Minister**

(3) COSSARO shall ensure that the Minister is provided with up to date copies of the criteria referred to in paragraph 1 of subsection (1) and the list referred to in paragraph 2 of subsection (1). 2007, c. 6, s. 4 (3).

#### **Rules for classification**

5. (1) For the purposes of this Act, COSSARO shall classify species in accordance with the following rules:
1. A species shall be classified as an extinct species if it no longer lives anywhere in the world.
  2. A species shall be classified as an extirpated species if it lives somewhere in the world, lived at one time in the wild in Ontario, but no longer lives in the wild in Ontario.
  3. A species shall be classified as an endangered species if it lives in the wild in Ontario but is facing imminent extinction or extirpation.
  4. A species shall be classified as a threatened species if it lives in the wild in Ontario, is not endangered, but is likely to become endangered if steps are not taken to address factors threatening to lead to its extinction or extirpation.
  5. A species shall be classified as a special concern species if it lives in the wild in Ontario, is not endangered or threatened, but may become threatened or endangered because of a combination of biological characteristics and identified threats. 2007, c. 6, s. 5 (1).

#### **Geographic limitation**

(2) When COSSARO classifies a species, the classification shall be deemed to apply to all of Ontario unless COSSARO indicates that the classification applies only to a specified geographic area in Ontario. 2007, c. 6, s. 5 (2).

#### **Best available scientific information**

(3) COSSARO shall classify species based on the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge. 2007, c. 6, s. 5 (3).

#### **Criteria for classification**

(4) The criteria for assessing and classifying species as endangered, threatened or special concern species under paragraph 1 of subsection 4 (1) shall include considerations of,

(a) the species' geographic range in Ontario; and

(b) the condition of the species across the broader biologically relevant geographic range in which it exists both inside and outside of Ontario.

### **Same**

(5) If consideration of the condition of the species both inside and outside of Ontario under clause (4) (b) would result in a species classification indicating a lower level of risk to the survival of the species than would result if COSSARO considered the condition of the species inside Ontario only, COSSARO's classification of a species shall reflect the lower level of risk to the survival of the species.

### **Reports by COSSARO**

~~6. (1) COSSARO may at any time submit a report to the Minister that,~~

~~(a) classifies a species as an extinct, extirpated, endangered, threatened or special concern species;~~

~~(b) states that an assessment of a species indicates that it is not at risk; or~~

~~(c) states that there is insufficient information available to classify a species. 2007, c. 6, s. 6 (1).~~

### **Annual report**

~~(2) COSSARO shall annually submit a report to the Minister on its work, and shall include in the report the classification of each species that COSSARO classified since its last annual report and the reasons for the classification. 2007, c. 6, s. 6 (2).~~

### **Reports by COSSARO**

#### **Annual report**

6. (1) Between January 1 and January 31 of each year, COSSARO shall submit an annual report to the Minister that sets out,

(a) the classification of each species that COSSARO has classified since its last annual report, as an extinct, extirpated, endangered, threatened or special concern species; and

(b) the reasons for the classification.

### **Same**

(2) The annual report may also state that,

(a) an assessment of a species indicates that it is not at risk; or

(b) there is insufficient information available to classify a species.

### **Additional reports**

(3) COSSARO shall not submit an additional report with respect to the classification of species to the Minister unless,

(a) the Minister has requested that COSSARO classify a species or reconsider its classification of a species under section 8; or

(b) COSSARO is of the opinion that a species that is not listed on the Species at Risk in Ontario List as extirpated, endangered or threatened, may be facing imminent extinction or extirpation.

### **Species at Risk in Ontario List**

7. (1) The Ministry official who holds the office designated under subsection (6) shall make and file a regulation that lists the following:

1. All the species that are classified by COSSARO as extirpated species.

2. All the species that are classified by COSSARO as endangered species.

3. All the species that are classified by COSSARO as threatened species.
4. All the species that are classified by COSSARO as special concern species. 2007, c. 6, s. 7 (1).

#### Contents of regulation

- (2) The Ministry official shall ensure that the regulation contains the following information for each species:
  1. The common name and scientific name of the species.
  2. COSSARO's classification of the species.
  3. If COSSARO indicated that the classification applies only to a specified geographic area, the area specified by COSSARO. 2007, c. 6, s. 7 (2).

#### Amendments to regulation

(3) The Ministry official shall make and file such amendments to the regulation as are required to ensure that the regulation accurately reflects new information reported to the Minister by COSSARO. 2007, c. 6, s. 7 (3).

#### Same

(4) For the purpose of subsection (3), if the Minister receives a report from COSSARO classifying or reclassifying a species, the Ministry official shall, not later than ~~three months~~ 12 months after the day the report is received, make and file an amendment to the regulation so that the regulation accurately reflects new information contained in the report. 2007, c. 6, s. 7 (4).

#### Same

(4.1) The 12-month period referred to in subsection (4) applies with respect to any report from COSSARO received by the Minister in 2019 before the day subsection 5 (1) of Schedule 5 of the *More Homes, More Choice Act, 2019* comes into force.

#### Commencement of regulations

(5) A regulation under this section comes into force on the day it is filed. 2007, c. 6, s. 7 (5).

#### Ministry official

(6) The Minister shall, for the purposes of this section, designate an office within the Ministry that is held by a public servant. 2007, c. 6, s. 7 (6).

#### Transition

- ~~(7) The Ministry official shall make and file the first regulation under this section not later than the day this section comes into force, and the regulation shall,~~
- ~~(a) list each of the species set out in Schedule 1 as an endangered species and, if a footnote to Schedule 1 specifies a geographic area for a species, indicate that the classification of the species as an endangered species applies to that area;~~
  - ~~(b) list each of the species set out in Schedule 2 as an extirpated species;~~
  - ~~(c) list each of the species set out in Schedule 3 as an endangered species;~~
  - ~~(d) list each of the species set out in Schedule 4 as a threatened species; and~~
  - ~~(e) list each of the species set out in Schedule 5 as a special concern species and, if a footnote to Schedule 5 specifies a geographic area for a species, indicate that the classification of the species as a special concern species applies to that area. 2007, c. 6, s. 7 (7).~~

#### Same

~~(8) For the purpose of subsections (1) and (2), any classifications or geographic areas that are required by subsection (7) to be included in a regulation and that are not classifications made by or geographic areas specified by COSSARO shall be deemed to be classifications made by or geographic areas specified by COSSARO, but nothing in subsection (7) or this subsection prevents COSSARO from submitting a report to the Minister under this Act that reclassifies a species listed in the regulation under subsection (7). 2007, c. 6, s. 7 (8).~~

#### Same

~~(9) If, on or after March 20, 2007 and before this section comes into force, COSSARO reported the classification or reclassification of a species to the Minister, the Ministry official shall,~~

- ~~—(a) if the species is not set out in any of Schedules 1 to 5 and is classified by COSSARO as an extirpated, endangered, threatened or special concern species, include COSSARO's classification of the species in the regulation made under subsection (7);~~
- ~~—(b) if the species is set out in any of Schedules 1 to 5 and is reclassified by COSSARO as an extirpated, endangered, threatened or special concern species, include COSSARO's reclassification of the species in the regulation made under subsection (7), instead of the classification that would otherwise apply under subsection (7); and~~
- ~~—(c) if the species is set out in any of Schedules 1 to 5 and clause (b) does not apply, not include the species in the regulation made under subsection (7), despite that subsection. 2007, c. 6, s. 7 (9).~~

**Same**

~~—(10) Despite subsection (5), if a regulation is made under subsection (7) before this section comes into force, the regulation comes into force on the day this section comes into force. 2007, c. 6, s. 7 (10).~~

#### **Ministerial requirements**

##### **Risk of imminent extinction or extirpation**

**8.** (1) If a species is not listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species but the Minister is of the opinion that the species may be facing imminent extinction or extirpation, the Minister may require COSSARO to assess and classify the species and, not later than the date specified by the Minister, to submit a report to the Minister under section 6. 2007, c. 6, s. 8 (1).

##### **Reconsideration**

(2) If a species is listed on the Species at Risk in Ontario List and the Minister is of the opinion that credible scientific information indicates that the classification on the List ~~is not appropriate~~ may not be appropriate, the Minister may require COSSARO to reconsider the classification and, not later than the date specified by the Minister, to submit a report to the Minister under section 6 indicating whether COSSARO confirms the classification or reclassifies the species. 2007, c. 6, s. 8 (2).

**Same**

~~—(3) Subsection (2) applies, with necessary modifications, if COSSARO has reported to the Minister its classification of a species as an extirpated, endangered, threatened or special concern species but the Species at Risk in Ontario List has not yet been amended in accordance with subsection 7 (4) to reflect the classification. 2007, c. 6, s. 8 (3).~~

**Same**

~~—(4) A requirement imposed by the Minister under subsection (3) does not delay or otherwise affect the obligation to comply with subsection 7 (4) or the application of this Act to the species. 2007, c. 6, s. 8 (4).~~

#### **Same**

(3) If COSSARO has reported to the Minister its classification of a species as an extirpated, endangered, threatened or special concern species but the Species at Risk in Ontario List has not yet been amended in accordance with section 7 to reflect the classification, the Minister, if of the opinion that credible scientific information indicates that the classification may not be appropriate, may require COSSARO to,

(a) reconsider the classification; and

(b) not later than the date specified by the Minister, submit a second report to the Minister under section 6 which shall either confirm the classification of the species in the first report or reclassify the species.

#### **Notice**

(4) Upon requiring COSSARO to reconsider a classification of a species under subsection (3), the Minister shall publish a notice of the requirement for a classification reconsideration on a website maintained by the Government of Ontario.

#### **Content of notice**

(4.1) A notice under subsection (4) shall,

(a) state that the Minister is of the opinion that credible scientific information indicates that the classification of the species in COSSARO's first report may not be appropriate;

(b) sets out the reasons for the Minister's opinion; and

- (c) sets out the date by which COSSARO is required to submit a second report to the Minister under section 6 which shall either confirm the classification of the species in the first report or reclassify the species.

#### **Timing of amendments to regulation**

(4.2) If the Minister requires under subsection (3) that COSSARO reconsider its classification of a species set out in a first report made under section 6,

- (a) the requirement under subsection 7 (4) for the Ministry official to make and file an amendment to the Species at Risk in Ontario List within 12 months after the day the first report is received no longer applies with respect to the species; and
- (b) the Ministry official shall, not later than 12 months after the day the second report is received from COSSARO in accordance with clause (3) (b), make and file an amendment to the Species at Risk in Ontario List so that it accurately reflects information relating to the species contained in the second report.

#### **Consultation with chair of COSSARO**

(5) The Minister shall not require COSSARO to do anything under this section unless he or she has consulted with the chair of COSSARO. 2007, c. 6, s. 8 (5).

#### **Temporary suspension of protections upon initial listing**

8.1 (1) Subject to subsections (2) and (3), the Minister may, by regulation, order that, as of the day a species is listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time, the application to the species of all or some of the prohibitions in subsections 9 (1) and 10 (1) shall be temporarily suspended.

#### **Timing**

(2) An order under subsection (1) shall be made by the Minister after he or she receives a report from COSSARO under section 6 classifying a species as endangered or threatened but before the amendment is made to the Species at Risk in Ontario List under section 7 to reflect the new classification of the species by COSSARO.

#### **Criteria**

(3) The Minister may make an order under subsection (1) only if,

- (a) before the report was submitted by COSSARO under section 6, the species was not listed as an endangered or threatened species on the Species at Risk in Ontario List;
- (b) the Minister is of the opinion that,

(i) the application of the prohibitions would likely have significant social or economic implications for all or parts of Ontario and, as a result, additional time is required to determine the best approach to protecting the species and its habitat, and

(ii) the temporary suspension will not jeopardize the survival of the species in Ontario; and

(c) the Minister is of the opinion that the species meets at least one of the following criteria:

(i) the species is broadly distributed in the wild in Ontario,

(ii) the amount, quality and availability of the species' habitat in Ontario is not currently limiting its survival or recovery in Ontario,

(iii) addressing the primary threats to the species is not currently possible or feasible and additional time is needed to assess the best approach to addressing those threats,

(iv) successfully reducing the primary threats to the species requires the cooperation of other jurisdictions and additional time is needed to address the inter-jurisdictional complexities of addressing those threats, or

(v) any other criteria prescribed by the regulations made by the Lieutenant Governor in Council.

#### **Order**

(4) An order under subsection (1) shall,

(a) identify the species to which it relates;

(b) specify the prohibitions in subsections 9 (1) and 10 (1), the application of which will be suspended under the order;

(c) set out the date on which the suspension of the specified prohibitions will end, subject to subsection (5); and

(d) state the reason for the suspension.

#### **Period of suspension**

(5) An order under subsection (1) shall provide that the period of suspension,

(a) begins immediately upon the species being listed on the Species at Risk in Ontario List as endangered or threatened, as the case may be; and

(b) ends on the date set out in the order which shall be no later than three years after the day on which the species is listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time.

#### **Geographic areas**

(6) An order under subsection (1) may be limited to one or more geographic areas described in the order.

#### **Change of species' name**

(7) An order may not be made under this section with respect to a species if, before the species classification set out in the most recent COSSARO report submitted under section 6, the species, or some members of the species, were classified under a different common or scientific name that appeared on the Species at Risk in Ontario List as belonging to an endangered or threatened species.

#### **Effect of order**

(8) For greater certainty, the making of an order under subsection (1) with respect to a species does not relieve the Minister of any obligations in sections 11, 12, 12.1 or 12.2 with respect to that species.

#### **Delay of prohibitions upon initial listing**

8.2 (1) Where a species is listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time, the prohibitions in clause 9 (1) (a), the prohibitions against possessing and transporting things under clause 9 (1) (b) and the prohibitions in subsection 10 (1) shall not apply to the following persons for a period of one year starting on the day the species is so listed:

1. A person engaged in an activity under a permit that was issued under subsection 17 (1) or 19 (3) before the species is so listed.

2. A person engaged in an activity under an agreement that was entered into under subsection 16 (1), 16.1 (3) or 19 (1) before the species is so listed.

#### **Where prohibitions suspended under s. 8.1**

(2) Despite subsection (1), if the Minister makes an order under section 8.1 temporarily suspending the application of all or some of the prohibitions referred to in subsection (1) with respect to a species upon that species being listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time, those prohibitions shall not apply to a person referred to in subsection (1) for a further period of one year starting immediately after the end of the period of temporary suspension.

### Limitations

(3) Subsections (1) and (2) authorize a person to carry out an act that would otherwise be prohibited under clause 9 (1) (a) and subsection 10 (1) or to possess or transport something contrary to clause 9 (1) (b), subject to the following limitations:

1. The person shall take reasonable steps to minimize the adverse effects of the activity that was authorized by the permit or agreement referred to in subsection (1) on the species that is listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time.
2. The person shall carry out the acts or possess or transport something only if doing so is,
  - i. necessarily incidental to the activity that was authorized by the permit or agreement referred to in subsection (1), or
  - ii. necessary for the purpose of taking the reasonable steps mentioned in paragraph 1.

### Change of species' name

(4) Subsection (1) does not apply to a regulation that lists a species on the Species at Risk in Ontario List as an endangered or threatened species for the first time, based on a species classification set out in the most recent COSSARO report submitted under section 6, if before the listing, the species, or some members of the species, were classified under a different common or scientific name that appeared on the Species at Risk in Ontario List as belonging to an endangered or threatened species.

## PROTECTION AND RECOVERY OF SPECIES

### **Prohibition on killing, etc.**

- 9.** (1) No person shall,
- (a) kill, harm, harass, capture or take a living member of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species;
  - (b) possess, transport, collect, buy, sell, lease, trade or offer to buy, sell, lease or trade,
    - (i) a living or dead member of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species,
    - (ii) any part of a living or dead member of a species referred to in subclause (i),
    - (iii) anything derived from a living or dead member of a species referred to in subclause (i); or
  - (c) sell, lease, trade or offer to sell, lease or trade anything that the person represents to be a thing described in subclause (b) (i), (ii) or (iii). 2007, c. 6, s. 9 (1).

### Exception, temporary suspension order

(1.1) If a species is listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time, the application of the prohibitions in subsection (1) with respect to the species is subject to any order made under section 8.1.

### Exception, species regulations

(1.2) Subject to section 57, the Minister may, by regulation, limit the application of the prohibitions in subsection (1) with respect to a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species.

### Same

(1.3) Without limiting the generality of subsection (1.2), a regulation under that subsection may,

- (a) provide that some of the prohibitions in subsection (1) do not apply with respect to a species or provide that they do not apply in specified circumstances;
- (b) limit the geographic areas to which all or some of the prohibitions in subsection (1) apply, or the times at which they apply, with respect to a species;
- (c) limit the application of all or some of the prohibitions in subsection (1) to a specified stage in the development of a species; or

(d) provide that a limitation set out in the regulation is subject to specified conditions.

### **Consideration of government response statement**

(1.4) Before a regulation is made under subsection (1.2), the Minister shall consider any government response statement that has been published under section 12.1 with respect to any species affected by the regulation.

#### **Possession, etc., of species originating outside Ontario**

(2) Clause (1) (b) does not apply to a member of a species that originated outside Ontario if it was lawfully killed, captured or taken in the jurisdiction from which it originated. 2007, c. 6, s. 9 (2).

#### **Specified geographic area**

(3) If the Species at Risk in Ontario List specifies a geographic area that a classification of a species applies to, subsection (1) only applies to that species in that area. 2007, c. 6, s. 9 (3).

#### **Possession by Crown**

~~—(4) Clause (1) (b) does not apply to possession by the Crown. 2007, c. 6, s. 9 (4).~~

#### **Transfer for certain purposes**

~~—(5) If the Crown is in possession of anything referred to in clause (1) (b), the Minister may transfer it to another person or body and authorize the person or body to possess it, despite clause (1) (b), for,~~

~~—(a) scientific or educational purposes; or~~

~~—(b) traditional cultural, religious or ceremonial purposes. 2007, c. 6, s. 9 (5).~~

### **Possession and transport by Crown**

(4) Clause (1) (b) does not apply to possession or transport of a species by the Crown.

### **Same, persons or body**

(5) Clause (1) (b) does not apply to possession or transport of a species by a person or body if the Minister has authorized the person or body to possess or transport the species for,

(a) scientific or educational purposes; or

(b) traditional cultural, religious or ceremonial purposes.

### **Conditions**

(5.1) An authorization granted under subsection (5) is subject to such conditions as the Minister may specify in the authorization.

#### **Interpretation**

(6) A reference in this section to a member of a species,

(a) includes a reference to a member of the species at any stage of its development;

(b) includes a reference to a gamete or asexual propagule of the species; and

(c) includes a reference to the member of the species, whether or not it originated in Ontario. 2007, c. 6, s. 9 (6).

#### **Prohibition on damage to habitat, etc.**

**10.** (1) No person shall damage or destroy the habitat of,

(a) a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species; or

(b) a species that is listed on the Species at Risk in Ontario List as an extirpated species, if the species is prescribed by the regulations for the purpose of this clause. 2007, c. 6, s. 10 (1).

#### **Specified geographic area**

(2) If the Species at Risk in Ontario List specifies a geographic area that a classification of a species applies to, subsection (1) only applies to that species in that area. 2007, c. 6, s. 10 (2).

#### **Transition**

~~—(3) Clause (1) (a) does not apply to a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species under clause 7 (7) (e) or (d) until the earlier of the following dates:~~

- ~~—1. The date that a regulation made under clause 55 (1) (a) that applies to the species comes into force.~~
- ~~—2. The fifth anniversary of the day section 7 comes into force. 2007, c. 6, s. 10 (3).~~

### **Exception, suspension of protections**

(3) If a species is listed on the Species at Risk in Ontario List as an endangered or threatened species for the first time, the application of the prohibition in clause (1) (a) with respect to the habitat of the species is subject to any order made under section 8.1.

### **Recovery strategies**

~~—11. (1) The Minister shall ensure that a strategy is prepared for the recovery of each species that is listed on the Species at Risk in Ontario List as an endangered or threatened species. 2007, c. 6, s. 11 (1).~~

### **Recovery strategies**

11 (1) The Minister shall ensure that a strategy is prepared for the recovery of each species that is listed on the Species at Risk in Ontario List as an endangered or threatened species and the strategy shall set out advice and recommendations to the Minister in accordance with subsection (2).

### **Contents**

(2) A strategy prepared for a species under subsection (1) shall include the following:

1. An identification of the habitat needs of the species.
2. A description of the threats to the survival and recovery of the species.
3. Recommendations to the Minister and other persons on,
  - i. objectives for the protection and recovery of the species,
  - ii. approaches to achieve the objectives recommended under subparagraph i, and
  - iii. the area that should be considered in developing a regulation under ~~clause 55 (1) (a)~~ clause 56 (1) (a) that prescribes an area as the habitat of the species.
4. Such other information as is prescribed by the regulations. 2007, c. 6, s. 11 (2).

### **Precautionary principle**

(3) In preparing a strategy under subsection (1), the persons who are preparing the strategy shall consider the principle that, where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat. 2007, c. 6, s. 11 (3).

### **Time limit**

(4) The Minister shall ensure that a strategy prepared under subsection (1) is made available to the public under section 51 not later than,

- (a) the first anniversary of the date the species is listed on the Species at Risk in Ontario List as an endangered species; or
- (b) the second anniversary of the date the species is listed on the Species at Risk in Ontario List as a threatened species; ~~or~~
- ~~—(c) despite clauses (a) and (b), the fifth anniversary of the date section 7 comes into force, if the species is listed on the Species at Risk in Ontario List as an endangered or threatened species under clause 7 (7) (a), (e) or (d). 2007, c. 6, s. 11 (4).~~

### **Same**

(5) Subsection (4) does not apply to a strategy if, before the time limit set out in subsection (4) expires, the Minister publishes a notice on ~~the environmental registry established under the *Environmental Bill of Rights, 1993*~~ a website maintained by the Government of Ontario that,

- (a) states that the Minister is of the opinion that additional time is required to prepare the strategy because of,
  - (i) the complexity of the issues,
  - (ii) the desire to prepare the strategy in co-operation with one or more other jurisdictions, or

- (iii) the desire to give priority to the preparation of recovery strategies for other species;
- (b) sets out the Minister's reasons for the opinion referred to in clause (a); and
- (c) provides an estimate of when the preparation of the strategy will be completed. 2007, c. 6, s. 11 (5).

**Same**

(6) The Minister shall not publish a notice under subsection (5) in respect of a species if he or she is of the opinion that a delay in the preparation of the strategy will jeopardize the survival or recovery of the species in Ontario. 2007, c. 6, s. 11 (6).

**Extirpated species**

(7) The Minister shall ensure that a strategy is prepared for the recovery of a species that is listed on the Species at Risk in Ontario List as an extirpated species if the Minister is of the opinion that reintroduction of the species into Ontario is feasible. 2007, c. 6, s. 11 (7).

**Feasibility**

~~(8) The Minister may consider social and economic factors in reaching his or her opinion on whether reintroduction of the species in Ontario is feasible for the purpose of subsection (7).~~

**Response to recovery strategy**

~~(8) Within nine months after a recovery strategy is prepared under this section, the Minister shall publish a statement that summarizes the actions that the Government of Ontario intends to take in response to the recovery strategy and the Government's priorities with respect to taking those actions. 2007, c. 6, s. 11 (8).~~

**Implementation**

~~(9) The Minister shall ensure the implementation of the actions referred to in a statement published under subsection (8) that, in the opinion of the Minister, are feasible and are within the responsibilities of the Minister. 2007, c. 6, s. 11 (9).~~

**Priorities**

~~(10) If statements have been published under subsection (8) in respect of more than one species, subsection (9) is subject to the right of the Minister to determine the relative priority to be given to the implementation of actions referred to in those statements. 2007, c. 6, s. 11 (10).~~

**Five-year review of progress**

~~(11) Not later than five years after a statement is published under subsection (8), the Minister shall ensure that a review is conducted of progress towards the protection and recovery of the species. 2007, c. 6, s. 11 (11).~~

**Feasibility**

~~(12) The Minister may consider social and economic factors in reaching his or her opinion on whether something is feasible for the purpose of subsection (7) or (9). 2007, c. 6, s. 11 (12).~~

**Management plans for special concern species**

~~12. (1) The Minister shall ensure that a management plan is prepared for each species that is listed on the Species at Risk in Ontario List as a special concern species. 2007, c. 6, s. 12 (1).~~

**Management plans for special concern species**

12 (1) The Minister shall ensure that a management plan is prepared for each species that is listed on the Species at Risk in Ontario List as a special concern species and the plan shall set out advice and recommendations to the Minister on approaches for the management of the species in Ontario.

**Application**

(2) Subsection (1) does not apply to a species for which the preparation of a recovery strategy or management plan is required under section 37 or 65 of the *Species at Risk Act* (Canada). 2007, c. 6, s. 12 (2).

**Time limit**

(3) The Minister shall ensure that a management plan prepared under subsection (1) is made available to the public under section 51 not later than the fifth anniversary of the date the species is listed on the Species at Risk in Ontario List as a special concern species. 2007, c. 6, s. 12 (3).

**Same**

(4) Subsection (3) does not apply to a management plan if, before the time limit set out in subsection (3) expires, the Minister publishes a notice on ~~the environmental registry established under the *Environmental Bill of Rights, 1993*~~ a website maintained by the Government of Ontario that,

- (a) states that the Minister is of the opinion that additional time is required to prepare the management plan because of,
  - (i) the complexity of the issues,
  - (ii) the desire to prepare the management plan in co-operation with one or more other jurisdictions, or
  - (iii) the desire to give priority to the preparation of recovery strategies or management plans for other species;
- (b) sets out the Minister's reasons for the opinion referred to in clause (a); and
- (c) provides an estimate of when the preparation of the management plan will be completed. 2007, c. 6, s. 12 (4).

**Response to management plan**

~~—(5) Within nine months after a management plan is prepared under this section, the Minister shall publish a statement that summarizes the actions that the Government of Ontario intends to take in response to the management plan and the Government's priorities with respect to taking those actions. 2007, c. 6, s. 12 (5).~~

**Implementation**

~~—(6) The Minister shall ensure the implementation of the actions referred to in a statement published under subsection (5) that, in the opinion of the Minister, are feasible and are within the responsibilities of the Minister. 2007, c. 6, s. 12 (6).~~

**Priorities**

~~—(7) If statements have been published under subsection (5) or 11 (8) in respect of more than one species, subsection (5) is subject to the right of the Minister to determine the relative priority to be given to the implementation of actions referred to in those statements. 2007, c. 6, s. 12 (7).~~

**Feasibility**

~~—(8) The Minister may consider social and economic factors in reaching his or her opinion on whether something is feasible for the purpose of subsection (6). 2007, c. 6, s. 12 (8).~~

**Government response statements**

12.1 (1) Where a recovery strategy or management plan is prepared under section 11 or 12, the Minister shall publish a statement that sets out the policy with respect to the actions that the Government of Ontario intends to take in response to the recovery strategy or management plan, and the Government's priorities with respect to taking those actions.

**Place of publication**

(2) A government response statement shall be published on a website maintained by the Government of Ontario.

**Time limit**

(3) A government response statement shall be published within nine months after the recovery strategy or management plan is made available to the public, subject to subsection (4).

**Same**

(4) The time limit in subsection (3) does not apply to a government response statement if, before the expiry of the nine months, the Minister publishes a notice on a website maintained by the Government of Ontario that,

- (a) states that the Minister is of the opinion that additional time is required to prepare the statement;
- (b) sets out the reasons for the Minister's opinion; and
- (c) provides an estimate of when the statement will be published.

**Implementation**

(5) The Minister shall ensure the implementation of any actions referred to in a government response statement that, in the opinion of the Minister, are feasible and are within the responsibilities of the Minister.

**Priorities**

(6) If government response statements have been published under this section in respect of more than one species, the Minister may, in implementing actions under subsection (5), determine the relative priority to be given to the implementation of actions referred to in those statements.

### Feasibility

(7) The Minister may consider social and economic factors in reaching his or her opinion on whether actions referred to in a government response statement are feasible for the purpose of subsection (5).

### Review of progress

12.2 (1) Where a government response statement is published under section 12.1 in response to a recovery strategy prepared in respect of a threatened, endangered or extirpated species, the Minister shall ensure that a review is conducted of the progress towards the protection and recovery of the species.

### Time limit

(2) A review under subsection (1) shall be conducted no later than,

(a) the time specified in the government response statement; or

(b) if no time is specified in the government response statement, five years after the government response statement is published.

### **Ecosystem approach**

**13.** A recovery strategy or management plan may be prepared under section 11 or 12 using an ecosystem approach. 2007, c. 6, s. 13.

### **Recovery strategies and management plans for more than one species**

**14.** A recovery strategy or management plan may be prepared under section 11 or 12 for more than one species, whether or not the species are part of the same ecosystem. 2007, c. 6, s. 14.

### **Incorporation of existing plan**

**15.** A recovery strategy or management plan prepared under section 11 or 12 may incorporate all or part of an existing plan that relates to the species. 2007, c. 6, s. 15.

## AGREEMENTS, PERMITS AND OTHER INSTRUMENTS

### **Stewardship agreements**

**16.** (1) The Minister may enter into agreements for the purpose of assisting in the protection or recovery of a species specified in the agreement that is listed on the Species at Risk in Ontario List. 2007, c. 6, s. 16 (1).

### **Response to recovery strategy**

~~(2) Before entering into an agreement under this section, the Minister shall consider any statement that has been published under subsection 11 (8) any government response statement that has been published under section 12.1 with respect to a recovery strategy for the species specified in the agreement.~~ 2007, c. 6, s. 16 (2).

### **Authorization provided by agreement**

(3) An agreement under subsection (1) may authorize a party to the agreement to engage in an activity specified in the agreement that would otherwise be prohibited by section 9 or 10. 2007, c. 6, s. 16 (3).

### **Same**

(4) An authorization described in subsection (3) does not apply unless the party to the agreement who seeks to rely on the authorization complies with any requirements imposed on the party by the agreement. 2007, c. 6, s. 16 (4).

### Landscape agreements

16.1 (1) An agreement entered into under this section shall meet the following requirements:

1. The agreement authorizes a party to the agreement to carry out multiple activities throughout a geographic area of the Province identified in the agreement.
2. The authorized activities would otherwise be prohibited under section 9 or 10 with respect to one or more species specified in the agreement (the impacted species) and listed on the Species at Risk in Ontario List as an endangered or threatened species.

3. The agreement requires that the authorized party execute specified beneficial actions that will assist with the protection or recovery of one or more species specified in the agreement (the benefiting species) that exist within the identified geographic area and are listed on the Species at Risk in Ontario List as an endangered, threatened or special concern species.

#### **Benefiting species**

(2) The benefiting species under a landscape agreement are not required to be an impacted species under that agreement, subject to clause (3) (a).

#### **Criteria for agreement**

(3) The Minister may enter into a landscape agreement only if,

(a) the Minister is satisfied that at least one of the benefiting species specified in the agreement is also an impacted species under the agreement;

(b) the Minister is satisfied that,

(i) the authorized party who enters into the agreement with the Minister meets any eligibility requirements prescribed by the regulations or is part of a class of persons prescribed by the regulations,

(ii) the authorized activities under the agreement meet any requirements prescribed by the regulations,

(iii) the geographic area to which the agreement applies has not been excluded by the regulations from the application of this section,

(iv) none of the impacted species under the agreement have been excluded by the regulations from the application of this section, and

(v) the agreement meets such other requirements as may be prescribed by the regulations; and

(c) at the time the agreement is entered into, the Minister is of the opinion that,

(i) the agreement will not jeopardize the survival or recovery in Ontario of an impacted species under the agreement,

(ii) the agreement requires the authorized party to take reasonable steps to minimize the adverse effects of the authorized activities on the impacted species specified in the agreement,

(iii) reasonable alternatives have been considered, including alternatives that will not adversely affect any impacted species specified in the agreement, and

(iv) the benefits from the beneficial actions that would be achieved in respect of the benefiting species outweigh the adverse effects of the activities affecting the impacted species.

#### **Considerations**

(4) Before entering into a landscape agreement, the Minister shall consider,

(a) any government response statement that has been published under section 12.1 in respect of each benefiting and impacted species under the agreement; and

(b) such other matters as may be prescribed by the regulations.

#### **Species conservation charge**

(5) An agreement entered into under this section may require the authorized party under the agreement to pay a species conservation charge to the Agency in accordance with section 20.3 if an impacted species under the agreement is also a conservation fund species.

### **Minister policy statements**

(6) The Minister may issue policy statements governing the form and content of landscape agreements.

### **Publication**

(7) Policy statements issued under subsection (6) shall be published on a website maintained by the Government of Ontario.

### **Compliance with policy statement**

(8) A landscape agreement shall be consistent with any policy statement published under subsection (7).

### **Compliance with agreement**

(9) An authorization provided by a landscape agreement under this section does not apply unless the person who enters into the agreement with the Minister complies with any requirements imposed on the person by the agreement.

### **Definitions**

(10) In this section,

“authorized activity” means an activity authorized under a landscape agreement that would otherwise be prohibited under section 9 or 10; (“activité autorisée”)

“authorized party” means a party to a landscape agreement who is authorized to carry out authorized activities under the agreement; (“partie autorisée”)

“benefiting species” means species that are listed on the Species at Risk in Ontario List as endangered, threatened or special concern species and that are specified in a landscape agreement as species in respect of which beneficial actions will be executed to assist in their protection or recovery; (“espèce bénéficiaire”)

“impacted species” means species that are listed on the Species at Risk in Ontario List as endangered or threatened species and that are specified in a landscape agreement as species in respect of which authorized activities may be carried out despite being otherwise prohibited in respect of the species under section 9 or 10. (“espèce touchée”)

### **Permits**

**17.** (1) The Minister may issue a permit to a person that, with respect to a species specified in the permit that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species, authorizes the person to engage in an activity specified in the permit that would otherwise be prohibited by section 9 or 10. 2007, c. 6, s. 17 (1).

### **Limitation**

(2) The Minister may issue a permit under this section only if,

(a) the Minister is of the opinion that the activity authorized by the permit is necessary for the protection of human health or safety;

(b) the Minister is of the opinion that the main purpose of the activity authorized by the permit is to assist, and that the activity will assist, in the protection or recovery of the species specified in the permit;

~~(c) the Minister is of the opinion that the main purpose of the activity authorized by the permit is not to assist in the protection or recovery of the species specified in the permit, but,~~

~~—(i) the Minister is of the opinion that an overall benefit to the species will be achieved within a reasonable time through requirements imposed by conditions of the permit,~~

~~—(ii) the Minister is of the opinion that reasonable alternatives have been considered, including alternatives that would not adversely affect the species, and the best alternative has been adopted, and~~

~~—(iii) the Minister is of the opinion that reasonable steps to minimize adverse effects on individual members of the species are required by conditions of the permit; or~~

~~—(d) the Minister is of the opinion that the main purpose of the activity authorized by the permit is not to assist in the protection or recovery of the species specified in the permit, but,~~

~~—(i) the Minister is of the opinion that the activity will result in a significant social or economic benefit to Ontario;~~

- ~~—(ii) the Minister has consulted with a person who is considered by the Minister to be an expert on the possible effects of the activity on the species and to be independent of the person who would be authorized by the permit to engage in the activity;~~
- ~~—(iii) the person consulted under subclause (ii) has submitted a written report to the Minister on the possible effects of the activity on the species, including the person's opinion on whether the activity will jeopardize the survival or recovery of the species in Ontario;~~
- ~~—(iv) the Minister is of the opinion that the activity will not jeopardize the survival or recovery of the species in Ontario;~~
- ~~—(v) the Minister is of the opinion that reasonable alternatives have been considered, including alternatives that would not adversely affect the species, and the best alternative has been adopted;~~
- ~~—(vi) the Minister is of the opinion that reasonable steps to minimize adverse effects on individual members of the species are required by conditions of the permit; and~~
- ~~—(vii) the Lieutenant Governor in Council has approved the issuance of the permit. 2007, c. 6, s. 17 (2).~~

(c) the Minister is of the opinion that the main purpose of the activity authorized by the permit is not to assist in the protection or recovery of the species specified in the permit, but,

(i) either of the following conditions will be or have been met:

(A) the Minister is of the opinion that an overall benefit to the species will be achieved within a reasonable time through requirements imposed by conditions of the permit, or

(B) subject to subsection (2.1), the person who would be authorized by the permit to engage in the activity has agreed to pay to the Agency any species conservation charge that is required by the permit.

(ii) the Minister is of the opinion that reasonable alternatives have been considered, including alternatives that would not adversely affect the species, and the best alternative has been adopted, and

(iii) the Minister is of the opinion that reasonable steps to minimize adverse effects on the species are required by conditions of the permit; or

(d) the Minister is of the opinion that the main purpose of the activity authorized by the permit is not to assist in the protection or recovery of the species specified in the permit, but,

(i) the Minister is of the opinion that the activity will result in a significant social or economic benefit to Ontario.

(ii) subject to subsection (2.1), the person who would be authorized to engage in the activity has agreed to pay to the Agency any species conservation charge that is required under the permit,

(iii) the Minister is of the opinion that the activity will not jeopardize the survival or recovery of the species in Ontario.

(iv) the Minister is of the opinion that reasonable alternatives have been considered, including alternatives that would not adversely affect the species, and the best alternative has been adopted, and

(v) the Minister is of the opinion that reasonable steps to minimize adverse effects on the species are required by conditions of the permit.

#### **Species conservation charge**

(2.1) The Minister may require a permit holder to pay a species conservation charge to the Agency as a condition of a permit issued under clause (2) (c) or (d) only if the permit is issued with respect to a species that is a conservation fund species.

#### **Response to recovery strategy**

(3) Before issuing a permit under this section, the Minister shall consider ~~any statement that has been published under subsection 11 (8) any government response statement that has been published under section 12.1~~ with respect to a recovery strategy for the species specified in the permit. 2007, c. 6, s. 17 (3).

#### Conditions

(4) A permit issued under this section may contain such conditions as the Minister considers appropriate. 2007, c. 6, s. 17 (4).

#### Same

(5) Without limiting the generality of subsection (4), conditions in a permit may,

- (a) limit the time during which the permit applies;
- (b) limit the circumstances in which the permit applies;
- (c) require the holder of the permit to take steps specified in the permit, and require that steps be taken before engaging in the activity authorized by the permit;
- (d) require the holder of the permit to furnish security in an amount sufficient to ensure compliance with the permit;
  - ~~(d.1) require the holder of a permit issued under clause (2) (c) or (d) to pay a species conservation charge;~~
- (e) require the holder of the permit to ensure that the activity authorized by the permit, and the effects of the activity, are monitored in accordance with the permit;
- (f) require the holder of the permit to rehabilitate habitat damaged or destroyed by the activity authorized by the permit, or to enhance another area so that it could become habitat suitable for the species specified in the permit; or
- (g) require the holder of the permit to submit reports to the Minister. 2007, c. 6, s. 17 (5).

#### Compliance

(6) An authorization described in subsection (1) does not apply unless the holder of the permit complies with any requirements imposed by the permit. 2007, c. 6, s. 17 (6).

#### Amendment or revocation

(7) The Minister may,

(a) with the consent of the holder of a permit issued under this section,

~~(i) amend the permit, if the permit was issued under clause (2) (a), (b) or (c) and the Minister is of the opinion that he or she would be authorized under the same clause to issue the permit in its amended form,~~

~~(ii) amend the permit, if,~~

(i) amend the permit, whether it was issued under clause (2) (a), (b), (c) or (d), if the Minister is of the opinion that the permit could be issued under the same clause in its amended form, or

(A) the permit was issued under clause (2) (d),

(B) the Minister has consulted with a person who is considered by the Minister to be an expert on the possible effects of the amendment on the species specified in the permit and to be independent of the person who would be authorized by the permit in its amended form to engage in an activity,

(C) the Lieutenant Governor in Council has approved the amendment, and

(D) the Minister is of the opinion that he or she would be authorized under clause (2) (d) to issue the permit in its amended form, or

(iii) revoke the permit; or

~~(b) without the consent of the holder of the permit issued under this section, but subject to section 20, amend or revoke the permit, if,~~

~~(i) the Minister is of the opinion that the revocation or amendment,~~

(b) without the consent of the holder of the permit issued under this section, but subject to section 20, amend or revoke the permit if the Minister is of the opinion that the revocation or amendment,

(i) is necessary to prevent jeopardizing the survival or recovery, in Ontario, of the species specified in the permit, or

(ii) is necessary for the protection of human health or safety.

- (A) is necessary to prevent jeopardizing the survival or recovery, in Ontario, of the species specified in the permit, or
  - (B) is necessary for the protection of human health or safety, and
- (ii) the Lieutenant Governor in Council has approved the revocation or amendment, in the case of a permit that was issued with the approval of the Lieutenant Governor in Council. 2007, c. 6, s. 17 (7).

**Delegation**

(8) In addition to any authority under any Act to delegate powers to persons employed in the Ministry, the Minister may, in the circumstances prescribed by the regulations, delegate his or her powers under this section to a person or body prescribed by the regulations, subject to any limitations prescribed by the regulations. 2007, c. 6, s. 17 (8).

**Instruments under other Acts**

**Minister's instruments**

- ~~18. (1) An instrument authorizing a person to engage in an activity has the same effect as a permit issued under section 17 if,~~
- ~~—(a) the instrument was entered into, issued, made or approved by the Minister;~~
  - ~~—(b) the instrument was entered into, issued, made or approved under a provision of an Act of Ontario or Canada or a provision of a regulation made under an Act of Ontario or Canada;~~
  - ~~—(c) the instrument affects a species specified in the instrument that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species;~~
  - ~~—(d) before entering into, issuing, making or approving the instrument, the Minister considered any statement that had been published under subsection 11 (8) with respect to a recovery strategy for the species specified in the instrument; and~~
  - ~~—(e) at the time the instrument was entered into, issued, made or approved,~~
    - ~~—(i) the Minister was of the opinion that the activity authorized by the instrument was necessary for the protection of human health or safety;~~
    - ~~—(ii) the Minister was of the opinion that the main purpose of the activity authorized by the instrument was to assist, and that the activity would assist, in the protection or recovery of the species specified in the instrument, or~~
    - ~~—(iii) the Minister was of the opinion that the main purpose of the activity authorized by the instrument was not to assist in the protection or recovery of the species specified in the instrument, but,~~
      - ~~(A) the Minister was of the opinion that an overall benefit to the species would be achieved within a reasonable time through requirements imposed by the instrument,~~
      - ~~(B) the Minister was of the opinion that reasonable alternatives had been considered, including alternatives that would not adversely affect the species, and the best alternative was adopted, and~~
      - ~~(C) the Minister was of the opinion that reasonable steps to minimize adverse effects on individual members of the species were required by the instrument. 2007, c. 6, s. 18 (1).~~

**Prescribed instruments**

- ~~(2) An instrument authorizing a person to engage in an activity has the same effect as a permit issued under section 17 if,~~
- ~~—(a) the instrument was entered into, issued, made or approved under a provision of an Act of Ontario or Canada or a provision of a regulation made under an Act of Ontario or Canada;~~
  - ~~—(b) the provision referred to in clause (a) is prescribed by the regulations;~~
  - ~~—(c) the Minister has entered into an agreement with the authorizing official that, for the purpose of this subsection, applies to the entering into, issuance, making or approval of instruments under the provision referred to in clause (a);~~
  - ~~—(d) the instrument affects a species specified in the instrument that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species;~~
  - ~~—(e) before entering into, issuing, making or approving the instrument, the authorizing official considered any statement that had been published under subsection 11 (8) with respect to a recovery strategy for the species specified in the instrument; and~~
  - ~~—(f) at the time the instrument was entered into, issued, made or approved,~~

- ~~— (i) the authorizing official was of the opinion that the activity authorized by the instrument was necessary for the protection of human health or safety,~~
- ~~— (ii) the authorizing official was of the opinion that the main purpose of the activity authorized by the instrument was to assist, and that the activity would assist, in the protection or recovery of the species specified in the instrument, or~~
- ~~— (iii) the authorizing official was of the opinion that the main purpose of the activity authorized by the instrument was not to assist in the protection or recovery of the species specified in the instrument, but,~~
- ~~— (A) the authorizing official was of the opinion that an overall benefit to the species would be achieved within a reasonable time through requirements imposed by the instrument,~~
- ~~— (B) the authorizing official was of the opinion that reasonable alternatives had been considered, including alternatives that would not adversely affect the species, and the best alternative was adopted, and~~
- ~~— (C) the authorizing official was of the opinion that reasonable steps to minimize adverse effects on individual members of the species were required by the instrument. 2007, c. 6, s. 18 (2).~~

**Application of subs. (2)**

- ~~— (3) Subsection (2) applies only if the instrument was entered into, issued, made or approved,~~
- ~~— (a) after the regulation referred to in clause (2) (b) came into force; and~~
- ~~— (b) during a period when the agreement referred to in clause (2) (c) was in effect. 2007, c. 6, s. 18 (3).~~

**Compliance**

- ~~— (4) Subsections (1) and (2) do not apply to an instrument unless the person seeking to rely on the instrument has complied with any requirements imposed by the instrument. 2007, c. 6, s. 18 (4).~~

**Definitions**

- ~~— (5) In this section,~~
- ~~“authorizing official” means,~~
- ~~— (a) with respect to an agreement that authorizes a person to engage in an activity, any federal, provincial or municipal official who entered into the agreement, or~~
- ~~— (b) with respect to any other instrument, the person who issued, made or approved the instrument; (“agent autorisateur”)~~
- ~~“instrument” means an agreement, permit, licence, order, approved plan or other similar document. (“acte”) 2007, c. 6, s. 18 (5).~~

**Activities regulated under other Acts**

**Definitions**

18. (1) In this section,

“instrument” means an agreement, permit, licence, order, approved plan or other similar document; (“acte”)

“regulated activity” means,

- (a) an activity authorized by an instrument that is entered into, issued, made or approved under a provision of an Act of Ontario or Canada or a provision of a regulation made under an Act of Ontario or Canada, or
- (b) an activity permitted or required under a regulation that is made under an Act of Ontario or Canada. (“activité réglementée”)

**Authority to carry out regulated activity**

(2) If a person is authorized, permitted or required to engage in a regulated activity but the regulated activity is prohibited by section 9 or 10 with respect to one or more species that are listed on the Species at Risk in Ontario List as endangered or threatened species, the person may engage in the regulated activity despite section 9 or 10 if,

- (a) the regulated activity is prescribed by the regulations made under subsection (3) for the purposes of this section;
- (b) the species is prescribed by the regulations made under subsection (3) for the purposes of this section;

- (c) the person engages in the regulated activity in accordance with the requirements set out in the regulations made under subsection (3), in addition to complying with the terms and conditions of the instrument or regulation that authorized, permitted or required the regulated activity and that was issued or made under another Act; and
- (d) the person pays to the Agency any species conservation charge that may be required by the regulations made under subsection (3).

### **Regulations**

(3) The Minister may make regulations,

- (a) prescribing regulated activities for the purposes of this section;
- (b) prescribing species listed on the Species at Risk in Ontario List as endangered or threatened species for the purposes of this section;
- (c) governing requirements or processes that must be followed by persons who are authorized, permitted or required to carry out the prescribed regulated activities under instruments or regulations, including,
  - (i) limiting or restricting the manner in which the persons carry out the regulated activity and requiring that they not perform some of the acts that are prohibited under subsection 9 (1) or 10 (1) while carrying out the activity, or
  - (ii) requiring the persons to,
    - (A) take actions to achieve a benefit that will assist with the protection or recovery of the species referred to in clause (b),
    - (B) consider reasonable alternatives to the regulated activity before engaging in that activity, including alternatives that would not adversely affect a species referred to in clause (b), and
    - (C) take reasonable steps to minimize the adverse effects of the regulated activity on the species referred to in clause (b);
- (d) requiring persons who are authorized under this section to engage in prescribed regulated activities that would otherwise have been prohibited under section 9 or 10 with respect to a conservation fund species, to pay a species conservation charge to the Agency;
- (e) prescribing circumstances in which a species conservation charge may be required of a person under clause (d) and the circumstances in which a species conservation charge may not be required.

### **Same**

- (4) The Minister may make a regulation prescribing a regulated activity for the purposes of this section and prescribing species listed on the Species at Risk in Ontario List for the purposes of this section only if, in the Minister's opinion,
- (a) the activity will not jeopardize the survival of any of the prescribed species or have any other significant adverse effect on those species; and
  - (b) the terms and conditions of the instrument or regulation that authorizes, permits or requires the regulated activity will, together with any requirements in the regulation made under subsection (3), require the person engaged in the regulated activity to,
    - (i) achieve a benefit that will assist with the protection or recovery of the prescribed species, if reasonable to do so,

(ii) consider reasonable alternatives to the regulated activity before engaging in that activity, including alternatives that would not adversely affect the prescribed species, and

(iii) take reasonable steps to minimize adverse effects on the prescribed species.

### **Considerations**

(5) Before making a regulation under subsection (3) prescribing a species listed on the Species at Risk in Ontario List for the purposes of this section, the Minister shall consider any government response statement that has been published under section 12.1 in respect of the species.

### **Aboriginal persons**

**19.** (1) The Minister may, for the purposes of this Act, enter into an agreement with any of the following persons or bodies that relates to a species specified in the agreement that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species:

1. A band as defined in the *Indian Act* (Canada).
2. A tribal council.
3. An organization that represents a territorially-based aboriginal community. 2007, c. 6, s. 19 (1).

### **Authorization**

(2) An agreement under subsection (1) may authorize aboriginal persons described in the agreement or a party to the agreement to engage in an activity specified in the agreement that would otherwise be prohibited by section 9 or 10. 2007, c. 6, s. 19 (2).

### **Permits**

(3) The Minister may issue a permit to a person or body referred to in subsection (1) that, with respect to a species specified in the permit that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species, authorizes aboriginal persons described in the permit or the holder of the permit to engage in an activity specified in the permit that would otherwise be prohibited by section 9 or 10. 2007, c. 6, s. 19 (3).

### **Species conservation charge**

(3.1) An agreement entered into under subsection (1) or a permit issued under subsection (3) may require a person or body that is authorized to engage in an activity under the agreement or permit to pay a species conservation charge to the Agency if the activity would otherwise have been prohibited under section 9 or 10 with respect to a conservation fund species.

### **Limitation**

(4) The Minister shall not enter into an agreement or issue a permit under this section if he or she is of the opinion that the agreement or permit would authorize an activity that would jeopardize the survival or recovery, in Ontario, of the species specified in the agreement or permit. 2007, c. 6, s. 19 (4).

### **Response to recovery strategy**

(5) Before entering into an agreement or issuing a permit under this section, the Minister shall consider ~~any statement that has been published under subsection 11 (8)~~ any government response statement that has been published under section 12.1 with respect to a recovery strategy for the species specified in the agreement or permit. 2007, c. 6, s. 19 (5).

### **Permit conditions**

(6) Subsections 17 (4) and (5) apply, with necessary modifications, to a permit issued under this section. 2007, c. 6, s. 19 (6).

### **Reliance on authorization**

- (7) An authorization described in subsection (2) or (3) does not apply to,
- (a) an aboriginal person who seeks to rely on the authorization, unless he or she complies with any requirements imposed on the aboriginal person by the agreement or permit; or
  - (b) a person or body referred to in subsection (1) who seeks to rely on the authorization, unless the person or body complies with any requirements imposed on it by the agreement or permit. 2007, c. 6, s. 19 (7).

### **Compliance with permit**

(8) The holder of a permit issued under this section and the aboriginal persons who are authorized by the permit to engage in an activity that would otherwise be prohibited by section 9 or 10 shall comply with any requirements imposed on them by the permit. 2007, c. 6, s. 19 (8).

**Amendment or revocation of permit**

(9) The Minister may,

- (a) with the consent of the holder of a permit issued under this section, revoke or amend the permit; or
- (b) without the consent of the holder of a permit issued under this section, but subject to section 20, revoke or amend the permit, if the Minister is of the opinion that the revocation or amendment,
  - (i) is necessary to prevent jeopardizing the survival or recovery, in Ontario, of the species specified in the permit, or
  - (ii) is necessary for the protection of human health or safety. 2007, c. 6, s. 19 (9).

**Amendment or revocation of permits without consent**

**20.** (1) Before amending or revoking a permit under clause 17 (7) (b) or 19 (9) (b), the Minister shall give the holder of the permit notice of the intention to amend or revoke the permit. 2007, c. 6, s. 20 (1).

**Contents of notice**

(2) The notice shall,

- (a) set out the amendments that the Minister intends to make to the permit, or state that the Minister intends to revoke the permit, as the case may be;
- (b) set out the Minister's reasons for amending or revoking the permit; and
- (c) state that a hearing on the amendment or revocation of the permit may be required in accordance with subsection (5). 2007, c. 6, s. 20 (2).

**Service of notice**

(3) The notice shall be served personally or by registered mail addressed to the holder of the permit at the person's last known address. 2007, c. 6, s. 20 (3).

**Registered mail**

(4) A notice served by registered mail shall be deemed to have been served on the fifth day after the day of mailing, unless the person served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 2007, c. 6, s. 20 (4).

**Hearing**

(5) A person who is served with a notice under subsection (3) may require a hearing by mailing or delivering to the Minister, within 15 days after service of the notice, a written request for a hearing that includes a statement of the reasons for requesting the hearing. 2007, c. 6, s. 20 (5).

**No request of hearing**

(6) If the Minister does not receive a request for a hearing in accordance with subsection (5), the Minister may amend or revoke the permit as set out in the notice under subsection (2). 2007, c. 6, s. 20 (6).

**Appointment of hearing officer**

(7) If the Minister receives a request for a hearing in accordance with subsection (5), the Minister shall appoint a hearing officer to hold the hearing. 2007, c. 6, s. 20 (7).

**Parties**

(8) The person who required the hearing and such other persons as the hearing officer may specify are parties to the hearing. 2007, c. 6, s. 20 (8).

**Minister entitled to be heard**

(9) The Minister is entitled to be heard at the hearing. 2007, c. 6, s. 20 (9).

**Procedure**

(10) Sections 5.1, 5.2, 6 to 15.1, 16, 21, 21.1, 22 and 23 of the *Statutory Powers Procedure Act* apply, with necessary modifications, to the hearing. 2007, c. 6, s. 20 (10).

**Report**

(11) After the hearing, the hearing officer shall issue a report to the Minister that contains,

- (a) a summary of the evidence presented at the hearing;

- (b) the hearing officer's opinion on the merits of amending or revoking the permit, having regard to the requirements of clause 17 (7) (b) or 19 (9) (b), as the case may be, and the hearing officer's recommendations; and
- (c) the reasons for the hearing officer's opinion and recommendations. 2007, c. 6, s. 20 (11).

**Minister's decision**

(12) After considering the hearing officer's report, the Minister may, subject to clause 17 (7) (b) or 19 (9) (b), as the case may be,

- (a) amend the permit as set out in the notice under subsection (2) or in another manner;
- (b) revoke the permit as set out in the notice under subsection (2), or amend the permit instead of revoking it as set out in the notice under subsection (2); or
- (c) refrain from amending or revoking the permit. 2007, c. 6, s. 20 (12).

**Notice of decision**

(13) The Minister shall give notice of his or her decision under subsection (12) and a copy of the hearing officer's report to the parties to the hearing. 2007, c. 6, s. 20 (13).

FUND

**Species at Risk Conservation Fund**

20.1 (1) A fund is hereby established under the name Species at Risk Conservation Fund in English and Fonds pour la conservation des espèces en péril in French, subject to any conditions that may be prescribed by the regulations.

**Purpose of Fund**

(2) The purpose of the Fund shall be to provide for the funding of activities that are reasonably likely to protect or recover conservation fund species or support their protection or recovery.

**Designation of conservation fund species**

(3) The Minister may by regulation designate species that are listed on the Species at Risk in Ontario List as conservation fund species for the purpose of the Fund.

**Role of Agency**

(4) The Agency shall administer and manage the affairs of the Fund.

**Fund money**

20.2 (1) The Fund shall be constituted by the following money:

1. Species conservation charges paid to the Agency in accordance with section 20.3.
2. Funding provided to the Agency by the Crown.
3. Donations made to the Agency.
4. Revenue earned on money in the Fund and otherwise by the Agency.
5. Refunds of money to the Agency.
6. Money from sources prescribed by the regulations.

**Money held by Agency**

(2) The Agency shall hold all Fund money it receives for the purposes of the Fund and shall not pay money out of the Fund except in accordance with sections 20.6 and 20.9.

**Money received by Agency**

(3) Fund money received or held by the Agency shall not form part of the Consolidated Revenue Fund.

### **Species conservation charges**

20.3 (1) The following persons shall pay a species conservation charge to the Agency:

1. A person who is required to do so under a landscape agreement referred to in section 16.1.
2. A person who is required to do so under a permit issued under section 17.
3. A person who is authorized under section 18 to engage in an activity that would otherwise be prohibited under section 9 or 10 and who is required to pay the charge under the regulations made under subsection (3).
4. A person who is required to do so under an agreement entered into under subsection 19 (1) or a permit issued under subsection 19 (3).
5. A person who is exempted from all or some of the prohibitions in subsection 9 (1) or 10 (1) by the regulations made under clause 55 (1) (b) and is required to pay the charge as a condition of the exemption set out in the regulations.

### **Purpose of charge**

(2) The purpose of a species conservation charge is to carry out the purpose of the Fund.

### **Prescribed species**

(3) A species conservation charge shall not be required of a person under this Act unless the person is authorized under an agreement, permit or regulation referred to in subsection (1) to do something that would otherwise have been prohibited under section 9 or 10 with respect to a conservation fund species.

### **Amount of charge**

(4) The amount of a species conservation charge shall be prescribed by the regulations or determined in accordance with the regulations.

### **Payment of charge**

(5) A species conservation charge shall be paid to the Agency.

(a) at the time and in the manner that may be set by the regulations; or

(b) if the charge is required by a permit issued under section 17 or subsection 19 (3) or an agreement entered into under section 16.1 or subsection 19 (1), in accordance with the time and manner specified in the permit or agreement.

### **Refund of charge**

(6) A species conservation charge may be fully or partially refunded by the Agency in accordance with the regulations.

### **Agency**

20.4 (1) The Lieutenant Governor in Council may, by regulation, establish a corporation without share capital to be known in English as the Species at Risk Conservation Trust and in French as Fiducie pour la conservation des espèces en péril.

### **Constitution**

(2) The constitution of the Agency and its board of directors shall be in accordance with the regulations.

### **Crown agency**

(3) Subject to the regulations, the Agency is, for all its purposes, an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty.

### **Employees**

(4) The Agency may employ or otherwise engage persons for the proper conduct of its activities, subject to the regulations or, if the regulations so provide, employees may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

**Corporations Act and Corporations Information Act**

(5) The Corporations Act and the Corporations Information Act [and the Not-for-Profit Corporations Act, 2010] do not apply to the Agency, except as provided by the regulations.

**Powers**

**Natural person powers**

20.5 (1) The Agency shall have the capacity, rights, powers and privileges of a natural person for the purpose of carrying out its objects, except as limited by this Act or the regulations.

**Financial activities**

(2) The Agency shall not borrow money, invest funds or manage financial risks except in accordance with a by-law of the Agency that has been approved by the Minister of Finance.

**Co-ordination of certain financial activities**

(3) Subject to subsection (4), the Ontario Financing Authority shall co-ordinate and arrange all borrowing, investing of funds and managing of financial risk of the Agency.

**Direction of Minister of Finance**

(4) The Minister of Finance may in writing direct a person other than the Ontario Financing Authority to perform the functions referred to in subsection (3).

**Same**

(5) A direction of the Minister of Finance under subsection (4) may be general or specific and may include terms and conditions that the Minister of Finance considers advisable.

**Loans, etc. to Agency**

(6) The Lieutenant Governor in Council may, by order, authorize the Minister of Finance to purchase securities of, or make loans to, the Agency in the amounts, at the times and on the terms determined by the Minister of Finance, subject to the maximum principal amount specified by the Lieutenant Governor in Council that may be purchased or advanced or that may be outstanding at the time.

**Same**

(7) The Minister of Finance may pay out of the Consolidated Revenue Fund any amount required for the purposes of subsection (6).

**Delegation of Minister's authority**

(8) The Lieutenant Governor in Council may, by order, delegate all or part of the authority of the Minister of Finance under subsection (7) to a public servant who works in the Ministry of Finance, other than in the office of the Minister, or who works in the Ontario Financing Authority.

**Subsidiary corporation**

(9) The Agency shall not establish a subsidiary corporation, except as permitted by the regulations.

**Commercial activity**

(10) The Agency shall not engage in commercial activity through an individual, corporation or other entity that is related to the Agency, to a member of its board of directors or to any of its officers, except as permitted by the regulations.

**Objects of Agency**

20.6 (1) The Agency's objects are to manage the Fund in accordance with the Fund's purpose under subsection 20.1 (2) and, to this end, the Agency shall,

(a) receive all money from sources listed in subsection 20.2 (1) and deposit it into the Fund;

(b) determine which activities are eligible for funding from the Fund;

(c) enter into funding agreements with persons to ensure that the funded activities are carried out in accordance with the purpose of the Fund;

(d) administer and manage the money in the Fund;

(e) pay money out of the Fund in accordance with the purpose of the Fund, section 20.7, the guidelines established by the Minister under section 20.8, section 20.10 and the regulations; and

(f) to perform the duties and exercise the powers assigned to the Agency by this Act and the regulations.

#### **Use of revenues**

(2) The Agency shall apply its revenues to carry out its objects and duties and for no other purpose.

#### **Activities eligible for funding**

20.7 (1) Subject to subsection (2), the Agency may make payments out of the Fund to a person who wishes to carry out an activity only if,

(a) the purpose of the activity is consistent with the purpose of the Fund; and

(b) the activity is reasonably likely to contribute to or have one or more of the following results with respect to a conservation fund species:

(i) the abatement or reversal of a declining population trend,

(ii) an increase in the viability or resilience of an existing population of the species,

(iii) an increase in the distribution of the species within its natural range, or

(iv) an increase in the number of reproductively-capable individuals of the species living in the wild.

#### **Where government response statement published**

(2) If a government response statement has been published with respect to a conservation fund species under section 12.1, the Agency shall not make payments out of the Fund to carry out an activity with respect to that species unless,

(a) the requirements of subsection (1) are satisfied; and

(b) either of the following requirements are satisfied:

(i) the activity is consistent with the actions that are identified in the government response statement as actions the government intends to take, lead or support, or

(ii) the activity is not consistent with the actions described in subclause (i) but, according to the guidelines issued by the Minister under section 20.8, the activity is eligible to receive funding from the Fund.

#### **Same**

(3) The activities that are eligible for funding under subsection (1) include activities that,

(a) reduce threats to conservation fund species;

(b) expand, improve or secure the habitat of the conservation fund species; and

(c) contribute to the body of scientific information related to the species or its habitat, including information obtained from community knowledge and aboriginal traditional knowledge.

#### **Activities excluded from funding**

(4) The activities that are prescribed by the regulations are not eligible to receive funding from the Fund.

### **Guidelines for funding of activities**

20.8 (1) The Minister may establish written guidelines respecting activities that may receive funding from the Fund and the guidelines shall be consistent with the purpose of the Fund.

### **Content**

(2) The guidelines may,

- (a) establish objectives and priorities for funding;
- (b) establish standards for activities that receive funding from the Fund; and
- (c) set out activities with respect to a conservation fund species that are eligible to receive funding from the Fund, despite not meeting the requirements of subclause 20.7 (2) (b) (i).

### **Compliance**

(3) The Agency shall determine eligibility for funding of activities in a manner that is consistent with the guidelines established by the Minister and published under subsection (5).

### **Not a regulation**

(4) The guidelines established under this section is not a regulation under Part III of the *Legislation Act, 2006*.

### **Publication**

(5) The Minister shall publish the guidelines on a website maintained by the Government of Ontario and the Agency shall publish the guidelines on a website maintained by the Agency.

### **Not an undertaking**

(6) For greater certainty, the guidelines and any revisions to it are not undertakings within the meaning of the *Environmental Assessment Act*.

### **Directions**

20.9 (1) If the Minister considers it advisable in the public interest to do so, the Minister may issue directions to the Agency relating to the governance and administration of the Agency or the administration or management of the Fund.

### **Exception**

(2) Despite subsection (1), the Minister shall not give directions on,

- (a) matters relating to the borrowing of money, the investment of funds or the managing of financial risks; or
- (b) matters that may be subject to guidelines under section 20.8.

### **Notice**

(3) The Minister shall give the Agency the notice that the Minister considers reasonable in the circumstances before issuing a direction.

### **Compliance**

(4) The Agency shall comply with any directions issued by the Minister within the time specified in the direction.

### **Additional payments out of Fund**

20.10 In addition to any activities funded by the Fund, the Agency may make payments out of the Fund for the purpose of,

- (a) funding the administration and operation of the Agency;
- (b) reimbursing the Crown for expenditures incurred by the Crown in relation to establishing the Agency or for any funding advanced by the Crown from time to time; and

(c) refunding species conservation charges in accordance with the regulations.

### **Operating agreement**

20.11 (1) The Minister and the Agency shall enter into an operating agreement with respect to the Agency in accordance with this section.

### **Contents**

(2) The operating agreement shall deal with matters that the Minister considers advisable in the public interest relating to carrying out the Agency's objects under this Act, including matters relating to its governance and operations.

### **Amendment**

(3) The Minister may, at any time, serve notice on the Agency that an amendment to the operating agreement is required.

### **Same**

(4) An amendment shall be agreed on by the Minister and the Agency within 180 days after notice is served under subsection (3), or within a longer period that the Minister, before or after the expiry of the 180-day period, may in writing allow.

### **Availability to public**

(5) The Agency shall make the operating agreement available to the public on a website maintained by the Agency.

### **Implementation**

(6) The Agency shall carry out its objects and duties in a manner that is consistent with the operating agreement.

### **Fiscal year**

20.12 The Agency's fiscal year shall be as prescribed by the regulations.

### **Annual business plan**

20.13 (1) On or before a date set out in the operating agreement, the Agency shall adopt and submit to the Minister a business plan for the implementation of its objects during a fiscal year specified in the operating agreement.

### **Contents**

(2) The business plan shall include any information that is required by the operating agreement or requested by the Minister.

### **Availability to public**

(3) The Agency shall make each business plan available to the public on a website maintained by the Agency in accordance with the operating agreement.

### **First business plan**

(4) Within the first year after of the day the Agency is established by regulation, the Minister may require the Agency to adopt and submit to the Minister a business plan for the implementation of its objects for the remainder of the calendar year and the business plan shall contain the information specified by the Minister.

### **Review**

20.14 (1) The Minister may require that reviews be carried out of the Agency, of its operations, or of both, including, without limitation, performance, governance, accountability and financial matters.

### **Manner**

(2) The Minister may specify that the review be carried out,

(a) by or on behalf of the Agency; or

(b) by a person specified by the Minister.

### **Access to records and information**

(3) When a review is carried out by a person specified by the Minister, the Agency's shall give the person and the person's employees or agents access to all records and other information required to conduct the review.

### **Financial statements**

20.15 (1) The Agency shall prepare annual financial statements in accordance with generally accepted accounting principles.

### **Auditors**

(2) The Agency shall appoint one or more auditors licensed under the *Public Accounting Act, 2004* to audit the financial statements of the Agency for each fiscal year.

### **Auditor General**

(3) The Auditor General may also audit the financial statements of the Agency.

### **Reports by Agency**

#### **Annual report**

20.16 (1) Every year, the Agency shall provide a report to the Minister no later than 120 days after the end of the Agency's fiscal year in respect of,

- (a) the financial affairs of the Agency during the fiscal year;
- (b) deposits made into the Fund during the fiscal year;
- (c) the payments made out of the Fund for the purpose of administering and operating the Agency during the fiscal year;
- (d) the activities funded by the Fund during the fiscal year;
- (e) the balance of funds remaining in the Fund at the end of the fiscal year;
- (f) a description of how the activities funded by the Fund have helped fulfil the purpose of the Fund; and
- (g) any other information required by the operating agreement or requested by the Minister.

### **Audited financial statements**

(2) The annual report shall include a copy of the audited financial statements of the Agency.

### **Signature**

(3) The annual report shall be signed by the chair of the board of directors of the Agency.

### **Five-year report**

(4) Promptly following the fifth anniversary of the day the Agency is established by regulation, and every five years thereafter, the Agency shall provide a report to the Minister on the effectiveness of the Fund in achieving its purpose and any other information required by the Minister, together with any recommendations the Agency wishes to make.

### **Consultation**

(5) In preparing a five-year report, the Agency shall consult with such persons as the Minister considers advisable by any means the Minister considers advisable.

### **Other reports**

(6) The Agency shall provide the Minister with such other reports and information as the Minister may request.

### **Reports available to public**

20.17 The Agency shall make the reports provided under subsections 20.16 (1) and (4) available to the public on a website maintained by the Agency and in any other manner that may be prescribed by the regulations and in accordance with any requirement set out in the operating agreement.

### Protection from liability

#### Immunity of Crown

20.18 (1) No proceeding shall be commenced against the Crown in respect of any act or omission of the Agency or its officers, directors or employees.

#### Protections from personal liability

(2) No proceeding for damages shall be commenced against any officer, director or employee of the Agency for any act done in good faith in the performance or intended performance of his or her duty or for any alleged neglect or default in the performance in good faith of that duty.

#### Agency's liability

(3) Subsection (2) does not relieve the Agency of any liability to which it would otherwise be subject in respect of an act or omission of a person mentioned in that subsection.

#### Unpaid judgments against Agency

(4) The Minister of Finance shall pay from the Consolidated Revenue Fund the amount of any judgement against the Agency that remains unpaid after the Agency has made all reasonable efforts, including liquidating its assets, to pay the amount of the judgment.

## ENFORCEMENT

#### Enforcement officers

~~21. (1) The following persons are enforcement officers for the purposes of this Act:~~

~~1. Every person who is a conservation officer for the purposes of the *Fish and Wildlife Conservation Act, 1997*.~~

~~2. Every person designated by the Minister as a park warden for a provincial park.~~

~~3. Such other persons or classes of persons as may be appointed or designated by the Minister as enforcement officers for the purposes of this Act. 2007, c. 6, s. 21 (1).~~

#### Park wardens

~~(2) Paragraph 2 of subsection (1) only applies in the provincial park for which the person is designated as park warden. 2007, c. 6, s. 21 (2).~~

#### Enforcement officers

21. The Minister may appoint persons or classes of persons as enforcement officers for the purposes of this Act.

#### Production of identification

**22.** An enforcement officer who is acting under this Act shall, on request, produce identification. 2007, c. 6, s. 22.

#### Inspection to determine compliance

**23. (1)** On application without notice, a justice may issue a warrant authorizing an enforcement officer to enter and inspect any land or other place if the justice is satisfied by information under oath that there are reasonable grounds to believe that an inspection under this section would assist in determining whether there is compliance with section 9, 10 or 49. 2007, c. 6, s. 23 (1).

#### Inspection without warrant

(2) An enforcement officer may enter and inspect any land or other place without a warrant if he or she has reasonable grounds to believe that the conditions for obtaining a warrant under subsection (1) exist but that exigent circumstances make it impractical to obtain a warrant under subsection (1). 2007, c. 6, s. 23 (2).

#### Other inspections without warrant

(3) An enforcement officer may enter and inspect any land or other place without a warrant for the purpose of determining whether there is compliance with any of the following provisions:

~~1. Any provision of an agreement entered into under section 16 or 19, if the agreement authorizes a person to engage in an activity that would otherwise be prohibited by section 9 or 10.~~

- ~~2. Any provision of a permit issued under section 17 or 19.~~
- ~~3. Any provision of an order made under section 27, 28 or 41. 2007, c. 6, s. 23 (3).~~

- 1. The requirements of subsection 8.2 (3).
- 2. Any provisions of an agreement entered into under section 16, 16.1 or 19, if the agreement authorizes a person to engage in an activity that would otherwise be prohibited by section 9 or 10.
- 3. Any provision of a permit issued under section 17 or 19.
- 4. Any provision of an order made under section 27, 27.1, 28 or 41.
- 5. Any provision of the regulations.

#### **Dwellings**

(4) Subsections (1), (2) and (3) do not authorize the enforcement officer to enter a building or part of a building that is being used as a dwelling. 2007, c. 6, s. 23 (4).

#### **Warrant; compliance with agreements, permits, orders**

(5) On application without notice, a justice may issue a warrant authorizing an enforcement officer to enter and inspect any land or other place, including a building or part of a building that is being used as a dwelling, if the justice is satisfied by information under oath that there are reasonable grounds to believe that,

- (a) an inspection under this section would assist in determining whether there is compliance with a provision referred to in subsection (3); and
- (b) entry has been refused or is likely to be refused. 2007, c. 6, s. 23 (5).

#### **Duration**

(6) A warrant issued under subsection (1) or (5) is valid for 30 days or for such shorter period as may be specified in it. 2007, c. 6, s. 23 (6).

#### **Further warrants**

(7) A justice may issue further warrants under subsection (1) or (5). 2007, c. 6, s. 23 (7).

#### **Time of entry**

(8) An entry under this section shall be made at a time that is reasonable in view of any activity that is conducted on the land or in the place. 2007, c. 6, s. 23 (8).

#### **Powers during inspection**

- (9) During an inspection under this section, the enforcement officer may,
- (a) be accompanied and assisted by any person authorized by the enforcement officer;
  - (b) inspect any thing that is relevant to the inspection;
  - (c) use or cause to be used any computer or other device that contains or is able to retrieve information, for the purpose of examining information contained in or available to the computer or other device, and produce or cause to be produced a printout or other output from the computer or other device;
  - (d) conduct any tests, take any measurements, take any specimens or samples, set up any equipment and make any photographic or other records that may be relevant to the inspection; and
  - (e) ask questions that may be relevant to the inspection. 2007, c. 6, s. 23 (9).

#### **Provision of information**

(10) A person shall, during an inspection under this section, provide information requested by the enforcement officer that is relevant to the inspection. 2007, c. 6, s. 23 (10).

#### **Copies**

(11) The enforcement officer may make copies of any thing inspected or produced during the inspection. 2007, c. 6, s. 23 (11).

#### **Removal**

(12) The enforcement officer may remove any thing for the purpose of making copies or of further inspection, but the copying or further inspection shall be carried out with reasonable dispatch and any thing removed shall be returned promptly to the person from whom it was taken unless it is not reasonable for the person to expect the thing to be returned. 2007, c. 6, s. 23 (12).

#### **Inspection of vehicles, boats, aircraft**

**24.** (1) An enforcement officer may stop a vehicle, boat or aircraft if he or she has reasonable grounds to believe that stopping the vehicle, boat or aircraft would assist in determining whether there is compliance with,

- (a) section 9, 10 or 49;
- (b) any provision of an agreement entered into under ~~section 16 or 19~~ section 16, 16.1 or 19, if the agreement authorizes a person to engage in an activity that would otherwise be prohibited by section 9 or 10;
- (c) any provision of a permit issued under section 17 or 19; ~~or~~
- ~~(d) any provision of an order made under section 27, 28 or 41. 2007, c. 6, s. 24 (1).~~  
(d) any provision of an order made under section 27, 27.1, 28 or 41; or
- (e) any provision of the regulations.

#### **Operator to stop**

(2) On the enforcement officer's signal to stop, the operator of the vehicle, boat or aircraft shall immediately stop and produce for inspection any thing requested by the officer that is relevant to the purpose for which the vehicle, boat or aircraft was stopped. 2007, c. 6, s. 24 (2).

#### **Stop signals**

- (3) For the purpose of subsection (2), signals to stop include,
- (a) intermittent flashes of red light, in the case of a vehicle;
  - (b) intermittent flashes of blue light, in the case of a boat; and
  - (c) a hand signal to stop, in the case of a vehicle or boat. 2007, c. 6, s. 24 (3).

#### **Searches with respect to offences**

**25.** (1) On application without notice, a justice may issue a warrant authorizing an enforcement officer to use any investigative technique or procedure or to do any thing described in the warrant if the justice is satisfied by information under oath that there are reasonable grounds to believe that an offence under this Act has been or is being committed and that evidence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing. 2007, c. 6, s. 25 (1).

#### **Assistance**

(2) The warrant may authorize any person specified in the warrant to accompany and assist the enforcement officer in the execution of the warrant. 2007, c. 6, s. 25 (2).

#### **Terms and conditions of warrant**

(3) The warrant shall authorize the enforcement officer to enter and search the building or other place for which the warrant was issued and, without limiting the powers of the justice under subsection (1), the warrant may, in respect of the alleged offence, authorize the enforcement officer to conduct any tests, take any measurements, take any specimens or samples, set up any equipment, make any excavations and make any photographic or other records that may be relevant to the search. 2007, c. 6, s. 25 (3).

#### **Duration**

- (4) The warrant is valid for 30 days or for such shorter period as may be specified in it. 2007, c. 6, s. 25 (4).

#### **Further warrants**

- (5) A justice may issue further warrants under subsection (1). 2007, c. 6, s. 25 (5).

#### **Part VIII of the *Provincial Offences Act***

(6) Subsections (1) to (5) do not prevent an enforcement officer from obtaining a search warrant under Part VIII of the *Provincial Offences Act*. 2007, c. 6, s. 25 (6).

#### **Searches without warrant**

(7) If an enforcement officer has reasonable grounds to believe that there is in a building or other place any thing that will afford evidence of an offence under this Act but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the enforcement officer may, without a warrant, enter and search the building or other place. 2007, c. 6, s. 25 (7).

#### **Dwellings**

(8) Subsection (7) does not apply to a building or part of a building that is being used as a dwelling. 2007, c. 6, s. 25 (8).

#### **Computers, etc.**

(9) An enforcement officer who is conducting a search that is authorized by a warrant or by subsection (7) may, for the purpose of examining information contained in or available to any computer or other device that contains or is able to retrieve information, use or cause to be used the computer or other device and produce or cause to be produced a printout or other output from the computer or other device. 2007, c. 6, s. 25 (9).

#### **Seizure and forfeiture**

**26.** (1) An enforcement officer who is lawfully in a building or other place may, without a warrant, seize any thing that he or she has reasonable grounds to believe,

- (a) has been obtained by the commission of an offence under this Act;
- (b) has been used in the commission of an offence under this Act;
- (c) will afford evidence of the commission of an offence under this Act; or
- (d) is intermixed with a thing referred to in clause (a), (b) or (c). 2007, c. 6, s. 26 (1).

#### **Presence pursuant to warrant**

(2) If the enforcement officer is in the building or other place pursuant to a warrant, subsection (1) applies to any thing, whether or not it is specified in the warrant. 2007, c. 6, s. 26 (2).

#### **Safekeeping**

(3) An enforcement officer shall deliver any thing that he or she seizes to a person authorized by the Minister for safekeeping. 2007, c. 6, s. 26 (3).

#### **Leaving with occupant**

(4) Despite subsection (3), an enforcement officer may leave a thing that he or she seizes in the custody of the occupant of the building or other place in which it was seized. 2007, c. 6, s. 26 (4).

#### **Occupant to safeguard**

- (5) If any thing is left in the custody of an occupant under subsection (4), the occupant shall safeguard the thing until,
- (a) an enforcement officer removes the thing;
  - (b) the occupant is notified by an enforcement officer that the investigation has concluded and that a charge will not be laid; or
  - (c) the defendant is acquitted or the charge is dismissed or withdrawn, if a charge is laid and the charge is finally disposed of. 2007, c. 6, s. 26 (5).

#### **Thing taken before justice**

(6) Subsections (3) and (4) do not apply to a thing that is required to be carried before a justice by a search warrant issued under Part VIII of the *Provincial Offences Act*. 2007, c. 6, s. 26 (6).

#### **Return of seized things**

- (7) Any thing seized and not forfeited under this section shall be returned to the person from whom it was seized if,
- (a) a charge is not laid at the conclusion of the investigation; or
  - (b) a charge is laid but, when the charge is finally disposed of, the defendant is acquitted or the charge is dismissed or withdrawn. 2007, c. 6, s. 26 (7).

#### **Payment of fine**

- (8) If a person is convicted of an offence and a fine is imposed,
- (a) a thing seized in connection with the offence and not forfeited to the Crown in right of Ontario under this section shall not be returned until the fine has been paid; and
  - (b) if payment of the fine is in default within the meaning of section 69 of the *Provincial Offences Act*, a justice may order that the thing be forfeited to the Crown in right of Ontario. 2007, c. 6, s. 26 (8).

**Forfeiture if identity unknown**

(9) If the identity of the person from whom a thing was seized has not been ascertained within 30 days after the seizure, the thing is forfeited to the Crown in right of Ontario. 2007, c. 6, s. 26 (9).

**Forfeiture of dead animals, etc.**

(10) Despite any order under Part VIII of the *Provincial Offences Act*, any dead animal, plant or other organism that is seized is forfeited to the Crown in right of Ontario if, in the opinion of the person who has custody of it, it is likely to spoil. 2007, c. 6, s. 26 (10).

**Forfeiture of live animals, etc.**

(11) Despite any order under Part VIII of the *Provincial Offences Act*, any live animal, plant or other organism that is seized is forfeited to the Crown in right of Ontario if, in the opinion of the person who has custody of it, it cannot properly be maintained in custody. 2007, c. 6, s. 26 (11).

**Forfeiture on conviction**

(12) If a person is convicted of an offence under this Act,

- (a) any animal, plant or other organism seized in connection with the offence, and any cage, shelter or other container seized in connection with the animal, plant or other organism, are forfeited to the Crown in right of Ontario; and
- (b) the justice may order that any other thing seized in connection with the offence be forfeited to the Crown in right of Ontario. 2007, c. 6, s. 26 (12).

**Application of subs. (12)**

(13) Subsection (12) applies in addition to any other penalty. 2007, c. 6, s. 26 (13).

**Forfeiture if possession is an offence**

(14) On motion in a proceeding under the *Provincial Offences Act*, or on application in accordance with the rules of court applicable to applications under that Act, a justice shall determine whether possession of a thing seized is an offence under this Act and, if it is, the justice shall order that the thing be forfeited to the Crown in right of Ontario. 2007, c. 6, s. 26 (14).

**Application of subs. (14)**

(15) Subsection (14) applies whether or not a charge is laid in respect of the thing seized and, if a charge is laid, subsection (14) applies even if the defendant is acquitted or the charge is dismissed or withdrawn. 2007, c. 6, s. 26 (15).

**Disposition of forfeited thing**

(16) A thing forfeited to the Crown in right of Ontario shall be disposed of in accordance with the directions of the Minister. 2007, c. 6, s. 26 (16).

**Application by person with interest**

(17) If a thing is forfeited to the Crown in right of Ontario following a conviction under this Act, a person who claims an interest in the thing and who is not the person from whom the thing was seized or the person who was convicted may apply to a justice, not later than 30 days after the thing is forfeited, on notice to the Minister and to the person from whom the thing was seized, for an order directing that the thing be released to the person claiming the interest. 2007, c. 6, s. 26 (17).

**Conditions**

(18) An order made under subsection (17) is subject to such conditions as may be imposed by the justice. 2007, c. 6, s. 26 (18).

**Exception**

(19) Subsections (17) and (18) do not apply to a thing forfeited under subsection (10) or (11). 2007, c. 6, s. 26 (19).

**Interpretation**

(20) Subsection 9 (6) applies, with necessary modifications, to the references in this section to animals, plants and other organisms, and those references include references to any part of an animal, plant or other organism. 2007, c. 6, s. 26 (20).

**Stop order**

**27.** (1) An enforcement officer may make an order requiring a person to stop engaging in or not to engage in an activity if the enforcement officer has reasonable grounds to believe that the person is engaging in the activity, has engaged in the activity or is about to engage in the activity and, as a result, is contravening, has contravened or is about to contravene any of the following provisions:

1. Section 9 or 10.

2. Any provision of an agreement entered into under ~~section 16 or 19~~ section 16, 16.1 or 19, if the agreement authorizes a person to engage in an activity that would otherwise be prohibited by section 9 or 10.
3. Any provision of a permit issued under section 17 or 19.
4. Any provision of an order made under ~~section 27, 28 or 41~~ section 27, 27.1, 28 or 41. 2007, c. 6, s. 27 (1).
5. Any provision of the regulations.

**Information to be included in order**

- (2) The order shall,
  - (a) specify the provision that the enforcement officer believes is being, has been or is about to be contravened;
  - (b) briefly describe the nature of the contravention and its location; and
  - (c) state that a hearing on the order may be required in accordance with section 30. 2007, c. 6, s. 27 (2).

**Species Protection Order**

27.1 (1) The Minister may make an order described in subsection (2) if he or she has reasonable grounds to believe that a person is engaging in or is about to engage in an activity that has or is about to have a significant adverse effect on a species and one or more of the following criteria are satisfied:

1. The species is listed on the Species at Risk in Ontario List as an endangered or threatened species, a regulation under subsection 9 (1.2) provides that some of the prohibitions in subsection 9 (1) do not apply with respect to the species, and, as a result of the regulation, section 9 will not prevent the person from engaging in the activity.
2. The species is not listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species, the Minister has received a report from COSSARO classifying or reclassifying the species as an extirpated, endangered or threatened species, and the amendment to the Species at Risk in Ontario List that is required by section 7 has not yet come into force.
3. The species is listed on the Species at Risk in Ontario List as an endangered or threatened species and the application of all or some of the prohibitions in subsection 9 (1) to the species is temporarily suspended by virtue of an order made by the Minister under section 8.1.

**Contents of order**

(2) The order may include any one or more of the following orders:

1. An order requiring the person to stop engaging in or not to engage in the activity.
2. An order prohibiting the person from engaging in the activity except in accordance with directions set out in the order.
3. An order directing the person to take steps set out in the order to address the significant adverse effect of the activity on the species.

**Information to be included in order**

(3) The order shall,

- (a) identify the species to which the order relates;
- (b) briefly describe the nature of the activity and the significant adverse effect of the activity on the species; and
- (c) state that a hearing on the order may be required in accordance with section 30.

**Habitat protection order**

**28.** (1) The Minister may make an order described in subsection (2) if he or she has reasonable grounds to believe that a person is engaging in or is about to engage in an activity that is destroying or seriously damaging or is about to destroy or

seriously damage an important feature of an area described in clause (b) of the definition of “habitat” in subsection 2 (1) for a species and one or more of the following criteria are satisfied:

1. The species is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species and a regulation made ~~under clause 55 (1) (a)~~ clause 56 (1) (a) is in force that applies to the species, but the Minister is of the opinion that the destruction or damage involves an area that is not within the area prescribed by that regulation.
2. The species is listed on the Species at Risk in Ontario List as an extirpated species and no regulation is in force that prescribes the species for the purpose of clause 10 (1) (b).
3. The species is not listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species, the Minister has received a report from COSSARO classifying or reclassifying the species as an extirpated, endangered or threatened species, and the amendment to the Species at Risk in Ontario List that is required by ~~subsection 7 (4)~~ section 7 has not yet come into force.
- ~~4. The species is listed on the Species at Risk in Ontario List as an endangered or threatened species under clause 7 (7) (c) or (d), and, pursuant to subsection 10 (3), clause 10 (1) (a) does not apply to the species. 2007, c. 6, s. 28 (1).~~
4. The species is listed on the Species at Risk in Ontario List as an endangered or threatened species and the application of the prohibitions in subsection 10 (1) with respect to the habitat of the species is temporarily suspended by virtue of an order made by the Minister under section 8.1.

#### **Contents of order**

(2) The order may include any one or more of the following orders:

1. An order requiring the person to stop engaging in or not to engage in the activity.
2. An order prohibiting the person from engaging in the activity except in accordance with directions set out in the order.
3. An order directing the person to take steps set out in the order to rehabilitate any area damaged or destroyed by the activity. 2007, c. 6, s. 28 (2).

#### **Information to be included in order**

(3) The order shall,

- (a) identify the species that the order relates to;
- (b) briefly describe the nature of the activity and the important feature of the area affected by the activity; and
- (c) state that a hearing on the order may be required in accordance with section 30. 2007, c. 6, s. 28 (3).

#### **Service of order**

**29.** (1) An order under ~~section 27 or 28~~ section 27, 27.1 or 28 shall be served personally or by registered mail addressed to the person against whom the order is made at the person’s last known address. 2007, c. 6, s. 29 (1).

#### **Registered mail**

(2) An order served by registered mail shall be deemed to have been served on the fifth day after the day of mailing, unless the person served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person’s control, receive the order until a later date. 2007, c. 6, s. 29 (2).

#### **Effective date**

(3) An order under ~~section 27 or 28~~ section 27, 27.1 or 28 takes effect when it is served, or at such later time as is specified in the order. 2007, c. 6, s. 29 (3).

#### **Hearing**

**30.** (1) A person who is served with an order under section 29 may require a hearing by mailing or delivering to the Minister, within 15 days after service of the order, a written request for a hearing that includes a statement of the reasons for requesting the hearing. 2007, c. 6, s. 30 (1).

#### **Appointment of hearing officer**

(2) If the Minister receives a request for a hearing in accordance with subsection (1), the Minister shall appoint a hearing officer to hold the hearing. 2007, c. 6, s. 30 (2).

#### **No stay of order**

(3) The requirement for the hearing does not stay the order. 2007, c. 6, s. 30 (3).

#### **Parties**

(4) The person who required the hearing and such other persons as the hearing officer may specify are parties to the hearing. 2007, c. 6, s. 30 (4).

**Minister entitled to be heard**

(5) The Minister is entitled to be heard at the hearing. 2007, c. 6, s. 30 (5).

**Procedure**

(6) Sections 5.1, 5.2, 6 to 15.1, 16, 21, 21.1, 22 and 23 of the *Statutory Powers Procedure Act* apply, with necessary modifications, to the hearing. 2007, c. 6, s. 30 (6).

**Report**

- (7) After the hearing, the hearing officer shall issue a report to the Minister that contains,
- (a) a summary of the evidence presented at the hearing;
  - (b) the hearing officer's opinion on the merits of the order and the hearing officer's recommendations; and
  - (c) the reasons for the hearing officer's opinion and recommendations. 2007, c. 6, s. 30 (7).

**Minister's decision**

- (8) After considering the hearing officer's report, the Minister may,
- (a) confirm the order;
  - (b) amend the order; or
  - (c) revoke the order. 2007, c. 6, s. 30 (8).

**Notice of decision**

(9) The Minister shall give notice of his or her decision under subsection (8) and a copy of the hearing officer's report to the parties to the hearing. 2007, c. 6, s. 30 (9).

**Arrest without warrant**

**31.** (1) An enforcement officer may arrest without warrant a person that he or she has reasonable grounds to believe is committing, has committed or is about to commit an offence under this Act. 2007, c. 6, s. 31 (1).

**Release by enforcement officer**

- (2) If an enforcement officer arrests a person under this section, he or she shall, as soon as practicable, release the person from custody, unless the officer has reasonable grounds to believe that,
- (a) it is necessary in the public interest for the person arrested to be detained, having regard to all the circumstances, including the need to,
    - (i) establish the identity of the person,
    - (ii) secure or preserve evidence of or relating to the offence, or
    - (iii) prevent the continuation or repetition of the offence or the commission of another offence; or
  - (b) the person arrested, if released, will not respond to a summons or offence notice or will not appear in court. 2007, c. 6, s. 31 (2).

**Person not released**

(3) Subsections 149 (2) and (3) and section 150 of the *Provincial Offences Act* apply if the person arrested is not released under subsection (2). 2007, c. 6, s. 31 (3).

**Necessary force**

**32.** An enforcement officer may use as much force as is necessary to exercise any of his or her powers under this Act. 2007, c. 6, s. 32.

**Incidental authority to pass through**

**33.** An enforcement officer who has the power to enter any land, building or other place under this Act, and any person authorized under this Act to accompany the enforcement officer, may enter and pass through other private property for the purpose of reaching the land, building or other place. 2007, c. 6, s. 33.

**Exemptions from Act, enforcement officers**

**34.** The Minister may, for the purpose of investigations and other law enforcement activities under this Act, exempt an enforcement officer from the application of any provision of this Act, subject to such conditions as the Minister considers necessary. 2007, c. 6, s. 34.

#### **Obstruction of enforcement officer**

**35.** A person shall not,

- (a) knowingly make a false or misleading statement to an enforcement officer who is acting under this Act; or
- (b) otherwise obstruct an enforcement officer who is acting under this Act. 2007, c. 6, s. 35.

#### **OFFENCES AND PENALTIES**

#### **Offences**

**36.** (1) A person is guilty of an offence if the person contravenes any of the following provisions:

- 1. Subsection 9 (1), 10 (1), 24 (2) or 26 (5), section 35, or subsection 49 (1) or (2).
- 2. Any provision of an agreement entered into under ~~section 16 or 19~~ section 16, 16.1 or 19, if the agreement authorizes a person to engage in an activity that would otherwise be prohibited by section 9 or 10.
- 3. Any provision of a permit issued under section 17 or 19.
- 4. Any provision of an order made under ~~section 27, 28 or 41~~ section 27, 27.1, 28 or 41. 2007, c. 6, s. 36 (1).
- 5. Any provision of the regulations.

#### **Attempts**

(2) A person who attempts to do anything that would be an offence under this Act is guilty of that offence. 2007, c. 6, s. 36 (2).

#### **Corporations**

**37.** If a corporation commits an offence under this Act, an officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted for the offence. 2007, c. 6, s. 37.

#### **Employers and principals**

**38.** In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant acting in the course of employment or agency, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the defendant establishes that,

- (a) the offence was committed without the knowledge of the defendant; and
- (b) the offence was committed without the consent of the defendant. 2007, c. 6, s. 38.

#### **Defence**

**39.** A person shall not be convicted of an offence under this Act if the person establishes that,

- (a) the person exercised all due diligence to prevent the commission of the offence; or
- (b) the person honestly and reasonably believed in the existence of facts that, if true, would render the person's conduct innocent. 2007, c. 6, s. 39.

#### **Penalties**

**40.** (1) A person convicted of an offence under this Act is liable,

- (a) in the case of a first offence under this Act,
  - (i) to a fine of not more than \$1,000,000, in the case of a corporation, or
  - (ii) to a fine of not more than \$250,000 or to imprisonment for a term of not more than one year, or to both, in the case of any other person; and
- (b) in the case of a second or subsequent offence under this Act,
  - (i) to a fine of not more than \$2,000,000, in the case of a corporation, or
  - (ii) to a fine of not more than \$500,000 or to imprisonment for a term of not more than one year, or to both, in the case of any other person. 2007, c. 6, s. 40 (1).

#### **More than one animal, plant, etc.**

(2) Despite subsection (1), if an offence involves more than one animal, plant or other organism, the maximum fine that may be imposed is the amount that would otherwise apply under subsection (1), multiplied by the number of animals, plants and other organisms that are involved. 2007, c. 6, s. 40 (2).

#### **Monetary benefit**

(3) The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed on the person by an amount equal to the amount of the monetary benefit that was acquired by or that accrued to the person as a result of the commission of the offence, despite the maximum fine specified in subsection (1) or (2). 2007, c. 6, s. 40 (3).

#### **Order for compliance**

**41.** (1) The court that convicts a person of an offence under this Act may, in addition to imposing a fine or imprisonment, make any of the following orders against the person:

1. An order not to engage in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence.
2. An order to take any action that the court considers appropriate to remedy or avoid any harm to a species that resulted or may result from the commission of the offence, including action to rehabilitate habitat damaged or destroyed by the offence.
3. An order to pay the Government of Ontario or any other person for all or part of any costs incurred to remedy or avoid any harm to a species that resulted or may result from the commission of the offence, including action to rehabilitate habitat damaged or destroyed by the offence.
4. An order to pay any person an amount for the purpose of assisting in the protection or recovery of the species in respect of which the offence was committed.
5. An order to take such other steps as are specified in the order to comply with this Act.
6. An order to pay all or part of any expenses incurred by the Minister or any other person with respect to the seizure, storage or disposition of any thing seized in connection with the offence. 2007, c. 6, s. 41 (1).

#### **Compliance with order**

(2) A person shall comply with an order made under this section. 2007, c. 6, s. 41 (2).

#### **Failure to comply**

(3) If a person fails to comply with an order to take action under paragraph 2 of subsection (1), the Minister may take such action as he or she considers appropriate to implement the order, and any cost or expense incurred by the Minister is a debt due to the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person. 2007, c. 6, s. 41 (3).

#### **Presiding judge**

**42.** The Crown may, by notice to the clerk of the Ontario Court of Justice, require that a provincial judge preside over a prosecution for an offence under this Act. 2007, c. 6, s. 42.

#### **Limitation period**

**43.** A prosecution for an offence under this Act shall not be commenced more than five years after the offence was committed. 2007, c. 6, s. 43.

#### **Similar species**

**44.** In a prosecution under this Act,

- (a) a living or dead animal, plant or other organism that is not easily distinguishable from a member of a species that is listed on the Species at Risk in Ontario List shall be deemed, in the absence of evidence to the contrary, to be a member of that species; and
- (b) a part of a living or dead animal, plant or other organism that is not easily distinguishable from a part of a member of a species that is listed on the Species at Risk in Ontario List shall be deemed, in the absence of evidence to the contrary, to be a part of a member of that species. 2007, c. 6, s. 44.

#### **Proof of inspected or seized things**

**45.** In a prosecution under this Act, a copy of a document or other thing purporting to be certified by an enforcement officer as a true copy of a document or other thing inspected or seized under this Act or Part VIII of the *Provincial Offences Act* is admissible in evidence as proof, in the absence of evidence to the contrary, of the document or other thing. 2007, c. 6, s. 45.

## MISCELLANEOUS

### Existing aboriginal or treaty rights

**46.** For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal or treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2007, c. 6, s. 46.

### Species at Risk in Ontario Stewardship Program

**47.** (1) A program to be known in English as the Species at Risk in Ontario Stewardship Program and in French as Programme d'intendance des espèces en péril en Ontario is hereby established. 2007, c. 6, s. 47 (1).

#### Purpose

(2) The purpose of the program is to promote stewardship activities that relate to species listed on the Species at Risk in Ontario List, including,

- (a) the preservation and rehabilitation of habitat, and the enhancement of other areas so that they can become habitat;
- (b) the implementation of recovery strategies and management plans;
- (c) public education and outreach programs relating to stewardship; and
- (d) other activities to assist in the protection or recovery of species. 2007, c. 6, s. 47 (2).

#### Grants

(3) As part of the program, the Minister may make grants for the purpose described in subsection (2). 2007, c. 6, s. 47 (3).

#### Advisory committee

**48.** Subject to the approval of the Lieutenant Governor in Council, the Minister may establish a committee to make recommendations to the Minister on any matter specified by the Minister that relates to,

- (a) the role, in the administration of this Act, of the precautionary principle, which, as described in the United Nations Convention on Biological Diversity, states that, where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat;
- (b) the development and delivery of incentive programs and stewardship programs, including the Species at Risk in Ontario Stewardship Program;
- (c) the development and promotion of best management practices related to the protection and recovery of species;
- (d) the development and delivery of public education and outreach programs;
- (e) the preparation and implementation of recovery strategies and management plans under sections 11 and 12;
- (f) the assembly of scientific information, including community knowledge and aboriginal traditional knowledge, that should be given to COSSARO to assist it in the classification of species;
- (g) the role of agreements and permits under this Act in assisting in the protection and recovery of species;
- (h) approaches that may be used under this Act to promote sustainable social and economic activities that assist in the protection or recovery of species;
- (i) the regulations made under this Act; or
- (j) such other matters as the Minister may specify. 2007, c. 6, s. 48.

#### Codes of practice, etc.

**48.1** The Minister may establish codes of practice, standards or guidelines with respect to the protection of species that are listed on the Species at Risk in Ontario List or their habitat.

#### Laws of other jurisdictions

**49.** (1) A person shall not possess a living or dead animal, plant or other organism, any part of a living or dead animal, plant or other organism, or anything derived from a living or dead animal, plant or other organism, if the thing possessed, or the animal, plant or other organism,

- (a) was killed, captured, taken, possessed, collected, transported, bought, sold, leased or traded contrary to a law that is described in subsection (3); or
- (b) was removed from another jurisdiction, contrary to a law of that jurisdiction that is described in subsection (3). 2007, c. 6, s. 49 (1).

#### **Sale prohibited in other jurisdiction**

(2) A person shall not buy, sell, lease, trade or offer to buy, sell, lease or trade a living or dead animal, plant or other organism, any part of a living or dead animal, plant or other organism, or anything derived from a living or dead animal, plant or other organism, that has been transported into Ontario if, under a law that is described in subsection (3), the purchase, sale, lease or trade would not be permitted in the jurisdiction from which the animal, plant or other organism was originally exported. 2007, c. 6, s. 49 (2).

#### **Applicable laws**

(3) The laws referred to in subsections (1) and (2) are laws of another jurisdiction that protect animals, plants or other organisms that are extirpated, endangered or threatened in that jurisdiction, or animals, plants or other organisms, however described, that are similarly at risk in that jurisdiction. 2007, c. 6, s. 49 (3).

#### **Defence**

(4) A person shall not be convicted of an offence for contravening subsection (1) or (2) if the person establishes that the person honestly and reasonably believed that the law of the other jurisdiction,

- (a) did not prohibit the killing, capturing, taking, possessing, collecting, transporting, buying, selling, leasing or trading, as the case may be, of the thing that the person is alleged to have possessed or the animal, plant or other organism, in the case of a prosecution for contravening clause (1) (a);
- (b) did not prohibit the removal from the other jurisdiction of the thing that the person is alleged to have possessed or the animal, plant or other organism, in the case of a prosecution for contravening clause (1) (b); or
- (c) permitted the purchase, sale, lease or trade, as the case may be, of the thing that the person is alleged to have bought, sold, leased, traded or offered to buy, sell, lease or trade, in the case of a prosecution for contravening subsection (2). 2007, c. 6, s. 49 (4).

#### **Interpretation**

(5) Subsection 9 (6) applies, with necessary modifications, to the references in this section to animals, plants and other organisms. 2007, c. 6, s. 49 (5).

#### **Fees**

- 50.** (1) The Minister may establish and charge,
- (a) fees related to entering into agreements or issuing permits under this Act; and
  - (b) fees for the use of facilities, equipment, services or other things provided by the Ministry relating to species listed on the Species at Risk in Ontario List. 2007, c. 6, s. 50 (1).

#### **Refund**

(2) The Minister may direct the refund of all or part of a fee if, in the Minister's opinion, it is equitable to do so. 2007, c. 6, s. 50 (2).

#### **Payment required**

(3) A person shall pay any fees charged by the Minister under this Act. 2007, c. 6, s. 50 (3).

#### **Information for public**

**51.** The Minister shall ensure that the following information is made available to the public:

1. General information about this Act and the regulations.
2. The most recent information that the Minister has received from COSSARO under subsection 4 (3).
3. All reports submitted to the Minister by COSSARO under section 6.
4. All recovery strategies and management plans that have been prepared under sections 11 and 12, and ~~all statements published by the Minister under subsections 11 (8) and 12 (5)~~ all government response statements published by the Minister under section 12.1.
5. General information about the implementation of recovery strategies and management plans.
6. General information about agreements entered into under ~~sections 16 and 19~~ sections 16, 16.1 and 19 and permits issued under sections 17 and 19.
7. General information about the enforcement of this Act. 2007, c. 6, s. 51.

#### **Publication of COSSARO reports**

(2) COSSARO reports that are required to be made available to the public under paragraph 3 of subsection (1) shall be made available no later than three months following receipt of the report by the Minister.

#### Information that could lead to contravention

**52.** Nothing in this Act requires the Minister to make information available to the public or otherwise disclose information if doing so could reasonably be expected to lead to a contravention of section 9 or 10. 2007, c. 6, s. 52.

#### Personal information

**53.** The Ministry may, for the purposes of this Act, collect personal information within the meaning of section 38 of the *Freedom of Information and Protection of Privacy Act*. 2007, c. 6, s. 53.

#### Application to Crown

**54.** (1) This Act is binding on the Crown. 2007, c. 6, s. 54 (1).

#### Protection and recovery activities

(2) Nothing in this Act prohibits any activity engaged in by ~~the Ministry~~ the Ministry or any other ministry of the government of Ontario to assist in the protection or recovery of species listed on the Species at Risk in Ontario List. 2007, c. 6, s. 54 (2).

#### Regulations

- ~~55.~~ (1) Subject to subsection (2) and section 57, the Lieutenant Governor in Council may make regulations,
- ~~(a) prescribing, for the purpose of clause (a) of the definition of “habitat” in subsection 2 (1), an area as the habitat of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species;~~
  - ~~(b) prescribing exemptions from subsection 9 (1) or 10 (1), subject to any conditions or restrictions prescribed by the regulations;~~
  - ~~(c) providing that subsection 11 (1) or (7) has no application to a species, if subsections 9 (1) and 10 (1) have no application to the species;~~
  - ~~(d) governing the preparation of recovery strategies under section 11 and management plans under section 12;~~
  - ~~(e) prescribing or respecting any matter that this Act refers to as a matter prescribed by the regulations or as otherwise dealt with by the regulations, other than regulations that are required by section 7. 2007, c. 6, s. 55 (1).~~

#### Consideration of recovery strategy

~~(2) Before a regulation is made under clause (1) (a) prescribing an area as the habitat of a species, the Minister shall consider any recovery strategy that has been prepared for the species under section 11 and any statement that has been published under subsection 11 (8) with respect to the recovery strategy. 2007, c. 6, s. 55 (2).~~

#### Description of habitat

- ~~(3) Without limiting the generality of clause (1) (a), a regulation under that clause prescribing an area as the habitat of a species,~~
- ~~(a) may describe the area by,
    - ~~(i) describing specific boundaries for the area,~~
    - ~~(ii) describing features of the area, or~~
    - ~~(iii) describing the area in any other manner;~~~~
  - ~~(b) may prescribe areas where the species lives, used to live or is believed to be capable of living; and~~
  - ~~(c) may prescribe an area that is larger or smaller than the area described by clause (b) of the definition of “habitat” in subsection 2 (1). 2007, c. 6, s. 55 (3).~~

#### Conditions and restrictions on exemptions

~~(4) Without limiting the generality of clause (1) (b), a regulation under that clause may, as a condition or restriction on an exemption, provide that the exemption only applies to a person if the person complies with an agreement entered into between the person and the Minister. 2007, c. 6, s. 55 (4).~~

#### Habitat regulations

- ~~56.~~ (1) If a species is listed on the Species at Risk in Ontario List as an endangered or threatened species, the Minister shall, not later than the date described in subsection (2),
- ~~(a) give notice to the public under section 16 of the *Environmental Bill of Rights, 1993* of a proposal to make a regulation under clause 55 (1) (a) that would prescribe an area as the habitat of the species;~~
  - ~~(b) publish a notice on the environmental registry established under the *Environmental Bill of Rights, 1993* that,~~

- ~~— (i) states that the Minister is of the opinion that additional time is required to prepare a proposal to make a regulation described in clause (a);~~
- ~~— (ii) sets out the Minister's reasons for the opinion referred to in subclause (i), and~~
- ~~— (iii) provides an estimate of when notice of a proposal to make a regulation described in clause (a) will be given to the public under section 16 of the *Environmental Bill of Rights, 1993*; or~~
- ~~— (c) publish a notice on the environmental registry established under the *Environmental Bill of Rights, 1993* that,~~
  - ~~— (i) states that the Minister is of the opinion that no regulation under clause 55 (1) (a) is required with respect to the species because,~~
    - ~~— (A) the only locations in Ontario where the species is known to live in the wild are on federal land within the meaning of the *Species at Risk Act* (Canada);~~
    - ~~— (B) pursuant to a regulation made under clause 55 (1) (b), clause 10 (1) (a) has no application to the species, or~~
    - ~~— (C) other circumstances prescribed by the regulations exist, and~~
  - ~~— (ii) sets out the reasons for the Minister's opinion referred to in subclause (i). 2007, c. 6, s. 56 (1).~~

#### Time period

- ~~— (2) The date referred to in subsection (1) is,~~
  - ~~— (a) the second anniversary of the date the species is listed on the Species at Risk in Ontario List as an endangered species;~~  
~~or~~
  - ~~— (b) the third anniversary of the date the species is listed on the Species at Risk in Ontario List as a threatened species. 2007, c. 6, s. 56 (2).~~

#### Transition

- ~~— (3) This section does not apply to a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species under clause 7 (7) (a), (c) or (d). 2007, c. 6, s. 56 (3).~~

#### Special requirements for certain regulations

- ~~— 57. (1) If a proposal for a regulation under subsection 55 (1) is under consideration in the Ministry, the proposed regulation would apply to a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species, and either or both of the following criteria apply, the Minister shall consult with a person who is considered by the Minister to be an expert on the possible effects of the proposed regulation on the species:~~
  - ~~— 1. In the case of any proposed regulation under subsection 55 (1), the Minister is of the opinion that the regulation is likely to jeopardize the survival of the species in Ontario or to have any other significant adverse effect on the species.~~
  - ~~— 2. In the case of a proposed regulation under clause 55 (1) (a), the Minister is of the opinion that the regulation is likely to result in a significant reduction in the number of members of the species that live in the wild in Ontario. 2007, c. 6, s. 57 (1).~~

#### Limitation

- ~~— (2) If the Minister is required by subsection (1) to consult with a person who is considered by the Minister to be an expert on the possible effects of a proposed regulation on a species, the Minister shall not recommend the regulation to the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall not make the regulation, unless,~~
  - ~~— (a) the Minister is of the opinion that the regulation will not result in the species no longer living in the wild in Ontario;~~
  - ~~— (b) the person consulted by the Minister under subsection (1) submitted a written report to the Minister on the possible effects of the proposed regulation on the species and the report included the person's opinion on,~~
    - ~~— (i) in the case of any proposed regulation under subsection 55 (1), whether the regulation will jeopardize the survival of the species in Ontario or have any other significant adverse effect on the species, and, if so, whether the regulation will result in the species no longer living in the wild in Ontario, and~~
    - ~~— (ii) in the case of a proposed regulation under clause 55 (1) (a), whether the regulation will result in a significant reduction in the number of members of the species that live in the wild in Ontario;~~
  - ~~— (c) the Minister considered alternatives to the proposal for a regulation, including,~~
    - ~~— (i) entering into one or more agreements under section 16 or issuing one or more permits under section 17, or~~
    - ~~— (ii) making a different regulation;~~

- ~~—(d) the Minister gave notice of the proposal for a regulation to the public under section 16 of the *Environmental Bill of Rights, 1993* at least two months before the day the regulation is made; and~~
- ~~—(e) the notice given under clause (d),~~
  - ~~—(i) in the case of any proposed regulation under subsection 55 (1),~~
    - ~~—(A) set out the Minister’s opinion on whether the regulation will jeopardize the survival of the species in Ontario or have any other significant adverse effect on the species, and~~
    - ~~—(B) stated that the Minister is of the opinion that the regulation will not result in the species no longer living in the wild in Ontario,~~
  - ~~—(ii) in the case of a proposed regulation under clause 55 (1) (a), set out the Minister’s opinion on whether the regulation will result in a significant reduction in the number of members of the species that live in the wild in Ontario,~~
  - ~~—(iii) gave the Minister’s reasons for the opinions referred to in subclauses (i) and (ii),~~
  - ~~—(iv) set out a copy of the report referred to in clause (b),~~
  - ~~—(v) set out alternatives to the proposal for a regulation that the Minister considered under clause (c),~~
  - ~~—(vi) set out the reasons for making the proposed regulation, including any significant social or economic benefit to Ontario, and~~
  - ~~—(vii) set out steps that could be taken to minimize any adverse effects of the proposed regulation on individual members of the species. 2007, c. 6, s. 57 (2).~~

**Fundamental changes in a proposal**

- ~~—(3) For the purposes of subsection (1), the question of whether a proposal has been so fundamentally altered as to become a new proposal is in the sole discretion of the Minister. 2007, c. 6, s. 57 (3).~~

**Interpretation**

- ~~—(4) In this section,~~
- ~~“proposal for a regulation” has the same meaning as in the *Environmental Bill of Rights, 1993*. 2007, c. 6, s. 57 (4).~~

**Regulations by the Lieutenant Governor in Council**

55. (1) Subject to section 57, the Lieutenant Governor in Council may make regulations.

- (a) prescribing criteria for the purpose of subclause 8.1 (3) (c) (v);
- (b) exempting any person, activity, species or thing from one or more of the prohibitions listed in subsection 9 (1) or 10 (1), subject to any conditions or restrictions prescribed by the regulations;
- (c) providing that subsection 11 (1) or (7) has no application to a species, if subsections 9 (1) and 10 (1) have no application to the species;
- (d) governing the preparation of recovery strategies under section 11 and management plans under section 12;
- (e) governing the Fund, its establishment and all matters relating to its management and administration including prescribing other sources of money that constitute the Fund for the purposes of paragraph 6 of subsection 20.2 (1) and respecting the payment of money out of the Fund;
- (f) governing the Agency including,
  - (i) providing for the governance and management of the Agency, including providing for a chief executive officer,
  - (ii) respecting the composition of the board of directors,
  - (iii) respecting the Agency’s role as agent of the Crown, providing for circumstances in which the Agency may act outside of its role as Crown agent and limiting its powers as Crown agent,

- (iv) respecting the Agency's ability to hire or employ persons or providing that employees may be appointed under Part III of the *Public Service of Ontario Act, 2006*.
- (v) respecting the capacity, rights, powers and privileges of the Agency and any restrictions on them.
- (vi) prescribing additional duties and powers of the Agency for the purposes of clause 20.6 (1) (f).
- (vii) respecting the Agency's authority to establish, acquire, wind up, dispose of or otherwise deal with, in whole or in part, a subsidiary and any restrictions on that authority.
- (viii) respecting the Agency's authority to engage in commercial activities, including activities with persons or entities that are related to the Agency, a member of its board of directors or to any of its officers.
- (ix) respecting applications for funding made to the Agency, the eligibility of activities for funding from the Agency, the funding agreements entered into between the Agency and funding recipients and the terms and conditions thereof.
- (x) prescribing activities for the purposes of subsection 20.7 (4).
- (xi) respecting the Agency's auditors, their appointment and their duties;
- (g) requiring persons who have been issued a permit under this Act or who have entered into an agreement with the Minister under this Act or any other specified person to prepare, store and submit prescribed documents, data or reports and respecting the methods of creating, storing and submitting them;
- (h) providing for the preparation and signing of documents and reports by electronic means, the filing of documents and reports by direct electronic transmission and the printing of documents and reports filed by direct electronic transmission;
- (i) respecting anything that may or must be prescribed, done or provided for by the regulations and for which a specific power is not otherwise provided in this Act;
- (j) respecting any matter that the Lieutenant Governor in Council considers advisable to effectively carry out the purpose of this Act.

#### **Exemption by regulation**

- (2) Without limiting the generality of clause (1) (b), a regulation under that clause may,
  - (a) limit the geographic areas to which the exemption applies;
  - (b) limit the times at which the exemption applies;
  - (c) require a person to meet any prescribed qualifications or prerequisites for the exemption;
  - (d) require a person to pay a species conservation charge with respect to a conservation fund species;
  - (e) prescribing circumstances in which a species conservation charge may be required of a person under clause (d) and the circumstances in which a species conservation charge may not be required;
  - (f) with respect to an exempted activity,
    - (i) require that the activity be carried out in a prescribed manner or subject to prescribed conditions and restrictions,
    - (ii) require a person to enter into an agreement with the Minister with respect to the activity or to give the Minister notice of the activity,

(iii) provide for the terms and conditions of an agreement referred to in subclause (ii) or the content of a notice referred to in that subclause.

(iv) require a person to monitor the effects of the activity on a specified species and take steps to minimize the effects of the activity on the species and take action to benefit the species, or

(v) require a person to provide the Minister with prescribed reports or information at such times and in such manner as may be prescribed.

### **Transitional regulations**

(3) The Lieutenant Governor in Council may make regulations with respect to any transitional matters resulting from the enactment of Schedule 5 to the *More Homes, More Choice Act, 2019*.

### **Regulations by Minister**

56. (1) Subject to section 57, the Minister may make regulations.

(a) prescribing, for the purpose of clause (a) of the definition of “habitat” in subsection 2 (1), an area as the habitat of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species;

(b) prescribing conditions for the purposes of clause 9 (1.3) (d);

(c) respecting the criteria for entering into a landscape agreement under clause 16.1 (3) (b) including,

(i) prescribing anything that is referred to in clause 16.1 (3) (b) as being prescribed by the regulations,

(ii) excluding geographic areas for the purposes of subclause 16.1 (3) (b) (iii), and

(iii) excluding impacted species for the purposes of subclause 16.1 (3) (b) (iv);

(d) designating species as conservation fund species;

(e) governing species conservation charges including,

(i) prescribing the amount of the charges or the manner of determining the amount of the charges,

(ii) respecting the time and manner of the payment of the charges,

(iii) respecting refunds of charges and authorizing the Agency to pay such refunds out of the Fund;

(f) respecting the contents of a report required under subsection 20.16 (4);

(g) respecting the manner in which reports may be made available to the public for the purposes of section 20.17.

### **Consideration of recovery strategy, etc.**

(2) Before a regulation is made under clause (1) (a) prescribing an area as the habitat of a species, the Minister shall consider any recovery strategy that has been prepared for the species under section 11 and any government response statement that has been published under subsection 12.1 (1) with respect to the recovery strategy.

### **Description of habitat**

(3) Without limiting the generality of clause (1) (a), a regulation under that clause prescribing an area as the habitat of a species,

(a) may describe the area by,

(i) describing specific boundaries for the area,

(ii) describing features of the area, or

(iii) describing the area in any other manner;

(b) may prescribe areas where the species lives, used to live or is believed to be capable of living; and

(c) may prescribe an area that is larger or smaller than the area described by clause (b) of the definition of “habitat” in subsection 2 (1).

#### **Special requirements for certain regulations**

57. (1) Before a regulation is made under subsection 9 (1.2), clause 55 (1) (b), subsection 55 (3) or clause 56 (1) (a) that would apply to a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species, the Minister shall consider whether the proposed regulation is likely to jeopardize the survival of the species in Ontario or to have any other significant adverse effect on the species.

#### **Requirements for making certain regulations**

(2) If the Minister is of the opinion that a proposed regulation is likely to jeopardize the survival of a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species, or to have any other significant adverse effect on the species, the Minister shall not make the regulation under subsection 9 (1.2) or clause 56 (1) (a) or recommend that the regulation be made by the Lieutenant Governor in Council under clause 55 (1) (b) or subsection 55 (3), as the case may be, unless the following requirements have been satisfied:

1. The Minister is of the opinion that the proposed regulation will not result in the species no longer living in the wild in Ontario.

2. The Minister has considered alternatives to the proposed regulation including,

i. entering into one or more agreements under section 16 or 16.1 or issuing one or more permits under section 17, or

ii. making a different regulation.

3. The Minister has considered any government response statement published under section 12.1 with respect to the species.

4. The Minister has given notice of the proposal for the regulation to the public under section 16 of the *Environmental Bill of Rights, 1993* at least two months before the day the regulation is made and the notice shall,

i. set out the Minister’s opinion on whether the regulation will jeopardize the survival of the species in Ontario or have any other significant adverse effect on the species,

ii. state that the Minister is of the opinion that the regulation will not result in the species no longer living in the wild in Ontario,

iii. give the Minister’s reasons for the opinions in subparagraphs i and ii.

iv. set out the alternatives to the proposed regulation that were considered by the Minister under paragraph 2,

v. set out the reasons for making the proposed regulation, including any significant social or economic benefit to Ontario, and

vi. set out steps that could be taken to minimize any adverse effects of the proposed regulation in individual members of the species.

58. REPEALED: 2007, c. 6, s. 58 (5).

**Incorporation by reference**

58. (1) A regulation may incorporate, in whole or in part and with such changes as the Minister or the Lieutenant Governor in Council considers necessary, a document, including a code, formula, standard, protocol, procedure or guideline, as the document may be amended or remade from time to time.

**Same**

(2) An amendment to a document referred to in subsection (1), or a remade version of such a document, has no effect until the Ministry publishes notice of the amendment or remade document in *The Ontario Gazette* or in the registry under the *Environmental Bill of Rights, 1993*.

59.-62. OMITTED (AMENDS OR REPEALS OTHER ACTS). 2007, c. 6, ss. 59-62.

63. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2007, c. 6, s. 63.

64. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2007, c. 6, s. 64.

SCHEDULE 1

TRANSITION — SPECIES DECLARED TO BE THREATENED WITH EXTINCTION IN REGULATION 328 OF THE REVISED REGULATIONS OF ONTARIO, 1990

(Clause 7 (7) (a))

**Mosses**

Spoon-leaved Moss (*Bryoandersonia illecebra*)

**Vascular Plants**

Bird's-foot Violet (*Viola pedata*)

Blunt-lobed Woodsia (*Woodsia obtusa*)

Cucumber Tree (*Magnolia acuminata*)

Drooping Trillium (*Trillium flexipes*)

Eastern Prickly Pear Cactus<sup>1</sup> (*Opuntia humifusa*)

False Hop Sedge (*Carex lupuliformis*)

Few-flowered Club-rush or Bashful Bulrush<sup>2</sup> (*Trichophorum planifolium*)

Heart-leaved Plantain (*Plantago cordata*)

Hoary Mountain-mint (*Pycnanthemum incanum*)

Horsetail Spike-rush (*Eleocharis equisetoides*)

Juniper Sedge (*Carex juniperorum*)

Large Whorled Pogonia (*Isotria verticillata*)

Nodding Pogonia (*Triphora trianthophora*)

Pink Milkwort (*Polygala incarnata*)

Red Mulberry (*Morus rubra*)

Skinner's Agalinis (*Agalinis skinneriana*)

Slender Bush-clover<sup>3</sup> (*Lespedeza virginica*)

Small White Lady's-slipper (*Cypripedium candidum*)

Small Whorled Pogonia (*Isotria medeoloides*)

Spotted Wintergreen (*Chimaphila maculata*)

Virginia Goat's-rue (*Tephrosia virginiana*)

Western Silvery Aster (*Symphyotrichum sericeum*)

Wood-poppy (*Stylophorum diphyllum*)

**Insects**

Frosted Elfin (*Callophrys irus*)

Karner Blue (*Lycaeides melissa samuelis*)

**Amphibians**

Northern Cricket Frog (*Acris crepitans*)

Northern Dusky Salamander (*Desmognathus fuscus*)

**Reptiles**

Blue Racer (*Coluber constrictor foxii*)

Lake Erie Watersnake (*Nerodia sipedon insularum*)

Timber Rattlesnake (*Crotalus horridus*)

**Birds**

American White Pelican (*Pelecanus erythrorhynchos*)

Bald Eagle<sup>4</sup> (*Haliaeetus leucocephalus*)

Eskimo Curlew (*Numenius borealis*)

Golden Eagle (*Aquila chrysaetos*)

Henslow's Sparrow (*Ammodramus henslowii*)

King Rail (*Rallus elegans*)

Kirtland's Warbler (*Dendroica kirtlandii*)

Loggerhead Shrike (*Lanius ludovicianus*)

Piping Plover (*Charadrius melodus*)

Prothonotary Warbler (*Protonotaria citrea*)

**Mammals**

Mountain Lion or Cougar (*Puma concolor*)

**Notes to Schedule 1:**

<sup>1</sup> The classification of Eastern Prickly Pear Cactus applies to Fish Point Provincial Nature Reserve on Pelee Island in the Township of Pelee.

<sup>2</sup> The classification of Few-flowered Club-rush or Bashful Bulrush applies to Lot 32, ranges 2 and 3, in the City of Pickering (formerly the geographic Township of Pickering), and to the Royal Botanical Gardens in the City of Hamilton.

<sup>3</sup> The classification of Slender Bush-clover applies to Tallgrass Prairie Heritage Park, Ojibway Park and Black Oak Heritage Park in the City of Windsor.

<sup>4</sup> The classification of Bald Eagle applies to the part of Ontario south of the French and Mattawa Rivers.

2007, c. 6, Sched. 1.

SCHEDULE 2  
TRANSITION — SPECIES TO BE LISTED AS EXTIRPATED SPECIES

(Clause 7 (7) (b))

**Mosses**

Incurved Grizzled Moss (*Ptychomitrium incurvum*)

**Vascular Plants**

Illinois Tick-trefoil (*Desmodium illinoense*)

Spring Blue-eyed Mary (*Collinsia verna*)

**Insects**

Eastern Persius Duskywing (*Erynnis persius persius*)

**Fishes**

Atlantic Salmon (Great Lakes population) (*Salmo salar*)

Gravel Chub (*Erimystax x-punctatus*)

Paddlefish (*Polyodon spathula*)

**Amphibians**

Spring Salamander (*Gyrinophilus porphyriticus*)

Tiger Salamander (*Ambystoma tigrinum*)

**Birds**

Greater Prairie-Chicken (*Tympanuchus cupido*)

2007, c. 6, Sched. 2.

SCHEDULE 3  
TRANSITION — SPECIES TO BE LISTED AS ENDANGERED SPECIES

(Clause 7 (7) (c))

**Vascular Plants**

American Chestnut (*Castanea dentata*)

American Columbo (*Frasera caroliniensis*)

American Ginseng (*Panax quinquefolius*)

Bluehearts (*Buchnera americana*)

Butternut (*Juglans cinerea*)

Cherry Birch (*Betula lenta*)

Eastern Prairie Fringed-orchid (*Platanthera leucophaea*)

Engelmann's Quillwort (*Isoetes engelmannii*)

Forked Three-awned Grass (*Aristida basiramea*)

Gattinger's Agalinis (*Agalinis gattingeri*)

Pitcher's Thistle (*Cirsium pitcheri*)

Purple Twayblade (*Liparis liliifolia*)

Scarlet Ammannia (*Ammannia robusta*)

Showy Goldenrod (*Solidago speciosa*)

Toothcup (*Rotala ramosior*)

White Prairie Gentian (*Gentiana alba*)

**Molluscs**

Kidneyshell (*Ptychobranthus fasciolaris*)

Mudpuppy Mussel (*Simpsonaias ambigua*)

Northern Riffleshell (*Epioblasma torulosa rangiana*)

Rayed Bean (*Villosa fabalis*)

Round Hickorynut (*Obovaria subrotunda*)

Round Pigtoe (*Pleurobema sintoxia*)

Snuffbox (*Epioblasma triquetra*)

Wavy-rayed Lampmussel (*Lampsilis fasciola*)

**Insects**

Aweme Borer Moth (*Papaipema aweme*)

**Fishes**

American Eel (*Anguilla rostrata*)  
Aurora Trout (*Salvelinus fontinalis timagamiensis*)  
Northern Madtom (*Noturus stigmosus*)  
Pugnose Shiner (*Notropis anogenus*)  
Shortnose Cisco (*Coregonus reighardi*)

**Amphibians**

Allegheny Mountain Dusky Salamander (*Desmognathus ochrophaeus*)  
Small-mouthed Salamander (*Ambystoma texanum*)

**Reptiles**

Spotted Turtle (*Clemmys guttata*)  
Wood Turtle (*Glyptemys insculpta*)

**Birds**

Acadian Flycatcher (*Empidonax virescens*)  
Barn Owl (*Tyto alba*)  
Northern Bobwhite (*Colinus virginianus*)

**Mammals**

American Badger (*Taxidea taxus*)

2007, c. 6, Sched. 3.

SCHEDULE 4  
TRANSITION — SPECIES TO BE LISTED AS THREATENED SPECIES

(Clause 7 (7) (d))

**Lichens**

Flooded Jellyskin (*Leptogium rivulare*)

**Vascular Plants**

American Water-willow (*Justicia americana*)  
Branched Bartonian (*Bartonia paniculata*)  
Colicroot (*Aletris farinosa*)  
Common Hoptree (*Ptelea trifoliata*)  
Crooked-stem Aster (*Symphyotrichum prenanthoides*)  
Deerberry (*Vaccinium stamineum*)  
Dense Blazing Star (*Liatris spicata*)  
Dwarf Hackberry (*Celtis tenuifolia*)  
Dwarf Lake Iris (*Iris lacustris*)  
False Rue-anemone (*Enemion biternatum*)  
Goldenseal (*Hydrastis canadensis*)  
Hill's Thistle (*Cirsium hillii*)  
Houghton's Goldenrod (*Solidago houghtonii*)  
Kentucky Coffee-tree (*Gymnocladus dioica*)  
Lakeside Daisy (*Hymenoxys herbacea*)  
Round-leaved Greenbrier (*Smilax rotundifolia*)

Small-flowered Lipocarpa (*Lipocarpa micrantha*)

White Wood Aster (*Eurybia divaricata*)

Wild Hyacinth (*Camassia scilloides*)

Willowleaf Aster (*Symphyotrichum praealtum*)

#### **Molluscs**

Mapleleaf Mussel (*Quadrula quadrula*)

Rainbow Mussel (*Villosa iris*)

#### **Fishes**

Black Redhorse (*Moxostoma duquesnei*)

Channel Darter (*Percina copelandi*)

Cutlip Minnow (*Exoglossum maxillingua*)

Eastern Sand Darter (*Ammocrypta pellucida*)

Lake Chubsucker (*Erimyzon sucetta*)

Redside Dace (*Clinostomus elongatus*)

Shortjaw Cisco (*Coregonus zenithicus*)

Spotted Gar (*Lepisosteus oculatus*)

#### **Amphibians**

Fowler's Toad (*Bufo fowleri*)

Jefferson Salamander (*Ambystoma jeffersonianum*)

#### **Reptiles**

Blanding's Turtle (*Emydoidea blandingii*)

Butler's Gartersnake (*Thamnophis butleri*)

Eastern Foxsnake (*Elaphe gloydi*)

Eastern Hog-nosed Snake (*Heterodon platirhinos*)

Eastern Ratsnake (*Elaphe obsoleta*)

Massasauga (*Sistrurus catenatus*)

Queen Snake (*Regina septemvittata*)

Spiny Softshell (*Apalone spinifera*)

Stinkpot (*Sternotherus odoratus*)

#### **Birds**

Hooded Warbler (*Wilsonia citrina*)

Least Bittern (*Ixobrychus exilis*)

Peregrine Falcon (*Falco peregrinus*)

#### **Mammals**

Grey Fox (*Urocyon cinereoargenteus*)

Wolverine (*Gulo gulo*)

Woodland Caribou (Forest-dwelling boreal population) (*Rangifer tarandus caribou*)

2007, c. 6, Sched. 4.

SCHEDULE 5  
TRANSITION — SPECIES TO BE LISTED AS SPECIAL CONCERN SPECIES

*(Clause 7 (7) (e))*

**Mosses**

Pygmy Pocket Moss (*Fissidens exilis*)

**Vascular Plants**

American Hart's-tongue Fern (*Asplenium scolopendrium americanum*)

Blue Ash (*Fraxinus quadrangulata*)

Broad Beech Fern (*Phegopteris hexagonoptera*)

Climbing Prairie Rose (*Rosa setigera*)

Green Dragon (*Arisaema dracontium*)

Hill's Pondweed (*Potamogeton hillii*)

Riddell's Goldenrod (*Solidago riddellii*)

Shumard Oak (*Quercus shumardii*)

Swamp Rose-mallow (*Hibiscus moscheutos*)

Tuberous Indian-plantain (*Arnoglossum plantagineum*)

**Insects**

Monarch (*Danaus plexippus*)

West Virginia White (*Pieris virginiensis*)

**Fishes**

Bigmouth Buffalo (*Ictiobus cyprinellus*)

Black Buffalo (*Ictiobus niger*)

Blackstripe Topminnow (*Fundulus notatus*)

Bridle Shiner (*Notropis bifrenatus*)

Grass Pickerel (*Esox americanus vermiculatus*)

Lake Sturgeon (*Acipenser fulvescens*)

Northern Brook Lamprey (*Ichthyomyzon fossor*)

Orangespotted Sunfish (*Lepomis humilis*)

Pugnose Minnow (*Opsopoeodus emiliae*)

River Redhorse (*Moxostoma carinatum*)

Silver Chub (*Macrhybopsis storeriana*)

Silver Shiner (*Notropis photogenis*)

Spotted Sucker (*Minytrema melanops*)

Upper Great Lakes Kiyi (*Coregonus kiyi kiyi*)

Warmouth (*Lepomis gulosus*)

**Reptiles**

Eastern Ribbonsnake (*Thamnophis sauritus*)

Five-lined Skink (*Eumeces fasciatus*)

Milksnake (*Lampropeltis triangulum*)

Northern Map Turtle (*Graptemys geographica*)

**Birds**

Bald Eagle<sup>1</sup> (*Haliaeetus leucocephalus*)  
Black Tern (*Chlidonias niger*)  
Cerulean Warbler (*Dendroica cerulea*)  
Golden-winged Warbler (*Vermivora chrysoptera*)  
Louisiana Waterthrush (*Seiurus motacilla*)  
Red-headed Woodpecker (*Melanerpes erythrocephalus*)  
Short-eared Owl (*Asio flammeus*)  
Yellow Rail (*Coturnicops noveboracensis*)  
Yellow-breasted Chat (*Icteria virens*)

**Mammals**

Beluga (*Delphinapterus leucas*)  
Eastern Mole (*Scalopus aquaticus*)  
Eastern Wolf (*Canis lupus lycaon*)  
Polar Bear (*Ursus maritimus*)  
Woodland Vole (*Microtus pinetorum*)

**Note to Schedule 5:**

<sup>1</sup> The classification of Bald Eagle applies to the part of Ontario north of the French and Mattawa Rivers.

2007, c. 6, Sched. 5.

---

Français

Back to top

---

<sup>i</sup> [Reference to the \*Not-for-Profit Corporations Act, 2010\* to come into force on the later of July 1, 2019, and the day that subsection 4\(1\) of that Act comes in force.](#)