

## **PART IX OFFENCES AND PENALTIES**

### **Offence**

**97. (1)** A person who contravenes any provision of this Act or the regulations is guilty of an offence.

### **Attempts**

**(2)** A person who attempts to do anything that would be an offence under this Act is guilty of that offence. 1997, c. 41, s. 97.

### **Corporations**

**98.** 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. 1997, c. 41, s. 98.

### **Employers and principals**

**99.** 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 the offence was committed without the knowledge or consent of the defendant. 1997, c. 41, s. 99.

### **Licensees**

**100.** In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by a person in the course of operations under a licence issued to the defendant, whether or not the person is identified or has been prosecuted for the offence, unless the defendant establishes that the offence was committed without the knowledge or consent of the defendant. 1997, c. 41, s. 100.

### **Defence**

**101.** 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. 1997, c. 41, s. 101.

### **Penalty**

**102. (1)** A person convicted of an offence under this Act is liable to a fine of not more than \$25,000, to imprisonment for a term of not more than one year, or to both.

### **Careless use of firearm**

**(2)** Despite subsection (1), a person convicted of an offence under section 16 is liable to a fine of not more than \$25,000, to imprisonment for a term of not more than two years, or to both.

### **Commercial offences**

**(3)** Despite subsections (1) and (2), a person convicted of an offence under this Act is liable to a fine of not more than \$100,000, to imprisonment for a term of not more than two years, or to both, if,

(a) the offence was committed under section 11, 48 or 51 or subsection 55 (3) or 58 (2); or

(b) the offence was committed for commercial purposes. 1997, c. 41, s. 102.

### **Limitation period**

**103. (1)** A prosecution for an offence under this Act,

(a) shall not be commenced more than two years after the day evidence of the offence first came to the attention of a conservation officer; and

(b) shall not be commenced more than three years after the offence was committed.

### ***Game and Fish Act***

**(2)** Subsection (1) also applies to an offence committed under the *Game and Fish Act* before section 119 comes into force, unless the offence was committed more than six months before that section comes into force. 1997, c. 41, s. 103.

### **Cancellation of licence and other court orders**

**104. (1)** If a person is convicted of an offence under subsection 16 (1), the court shall order that,

(a) any licence to hunt issued to the person shall be cancelled;

(b) the person shall not possess, apply for or obtain a licence to hunt, and shall not hunt, during a period specified in the order; and

(c) the person shall successfully complete a hunter education course prescribed by the regulations and successfully pass an examination for applicants for licences to hunt before the person applies for a licence to hunt.

### **Discretionary order**

[\(2\)](#) If a person is convicted of an offence under this Act, the *Fisheries Act* (Canada) or the *Migratory Birds Convention Act, 1994* (Canada), other than an offence under subsection 16 (1) of this Act, the court may order that, during a period specified in the order,

(a) the person shall not possess, apply for or obtain a licence of a kind specified by the court that is related to the offence; and

(b) the person shall not engage in any activity for which the person would be required to hold a licence of the kind specified under clause (a).

### **Same**

[\(3\)](#) If a court makes an order under subsection (2) in respect of a kind of licence that the person holds at the time the order is made, the court shall order that the licence be cancelled.

### **No stay on appeal**

[\(4\)](#) An appeal of the conviction does not stay the effect of an order under subsection (1), (2) or (3).

### **Surrender of licence**

[\(5\)](#) A person whose licence is cancelled under this section shall promptly surrender the licence to the Minister.

### **Compliance with order**

[\(6\)](#) A person shall comply with an order made under this section. 1997, c. 41, s. 104.

### **Suspension of licence if fine in default**

[105.](#) If the payment of a fine imposed for an offence under this Act or the *Fisheries Act* (Canada) is in default, an order may be made under section 69 of the *Provincial Offences Act* directing that any licence under this Act that is related to the offence be suspended, and that any licence of that kind not be renewed, validated or issued, until the fine is paid. 1997, c. 41, s. 105.

### **Compensation of Ministry, release of wildlife, issuing licences**

#### **Compensation: offence under subs. 46 (1) or 54 (1)**

[106. \(1\)](#) A court that convicts a person of an offence under subsection 46 (1) or 54 (1) may order the person to compensate the Minister for expenses incurred by the Minister in capturing or killing any farmed animal, wildlife or invertebrate that was released.

### **Exception**

[\(2\)](#) Subsection (1) does not apply to the person who kept or possessed the farmed animal, wildlife or invertebrate before it was released.

### **Compensation: offence under subs. 61 (2)**

[\(3\)](#) A court that convicts a person of an offence under subsection 61 (2) may order the person to compensate the Minister for any amount collected by the person on behalf of the Crown that has not been remitted to the Crown. 1997, c. 41, s. 106.

### **Proof of licence**

[107.](#) If a licence is a defence to a prosecution for an offence under this Act, the defendant has the burden of proving that the defendant had the required licence. 1997, c. 41, s. 107.

### **Proof of inspected or seized documents**

[108.](#) In a prosecution under this Act, a copy of a document purporting to be certified by a conservation officer as a true copy of a document 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. 1997, c. 41, s. 108.

### **Proof of hunting or trapping**

[109.](#) In a prosecution under this Act in respect of hunting or trapping,

(a) proof that a person possessed, in an area usually inhabited by wildlife, a firearm, trap, decoy or other hunting or trapping device, a ferret or a specially protected raptor or other bird of prey, is proof, in the absence of evidence to the contrary, that the person was hunting or trapping, as the case may be; and

(b) proof that a person shot at or stalked a decoy or other device placed by a conservation officer to suggest the presence of wildlife is proof, in the absence of evidence to the contrary, that the person was hunting. 1997, c. 41, s. 109.

### **Proof of sunrise and sunset times**

[110.](#) In a prosecution for an offence under section 20, a certificate purporting to be signed by an astronomer setting out the times of sunrise and sunset is admissible in evidence as proof, in the absence of evidence to the contrary, of those times. 1997, c. 41, s. 110.

### **Proof of document**

[111.](#) In a prosecution under this Act, the production of a document that purports to have been made by a person is proof, in the absence of evidence to the contrary, that the person made the document and of its contents. 1997, c. 41, s. 111.