

[Français](#)

Fish and Wildlife Conservation Act, 1997

S.O. 1997, CHAPTER 41

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PART
INTERPRETATION AND APPLICATION

I

Interpretation

1. (1) In this Act,

"animal" means a member of the class Mammalia (mammals), Aves (birds), Reptilia (reptiles) or Amphibia (amphibians), but does not include a human being; ("animal")

"aquaculture" means the breeding or husbandry of fish, and the verb "culture" has, with respect to fish, a corresponding meaning; ("pisciculture")

"boat" includes a motorboat, rowboat, canoe, punt, sailboat or raft; ("bateau")

"body-gripping trap" means a device designed to capture or kill an animal by seizing and holding it by a part of its body, and includes a spring trap, steel trap, gin, deadfall, snare or leghold trap but does not include a device designed to capture or kill a mouse or rat; ("piège à mâchoires")

"buy or sell" includes barter or trade for consideration, offer to buy, sell, barter or trade for consideration, or possess for the purpose of buying, selling, bartering or trading for consideration, and "buying or selling" has a corresponding meaning; ("acheter ou vendre")

"closed season" means, with respect to a species, the period during which hunting, trapping or fishing for that species is not permitted; ("période de fermeture")

"document" means anything recorded on paper or in electronic, photographic or other form; ("document")

"domestic animal" means an animal that belongs to a species that is not wild by nature; ("animal domestique")

"farmed animal" means a white-tailed deer, elk, bison, fisher, fox, lynx, marten, mink, raccoon or member of another species prescribed by the regulations that is being kept in captivity in Ontario for the purpose of commercial propagation or the commercial production of meat, hides, pelts, antler products or other products; ("animal d'élevage")

"farmer" means a person whose chief occupation is farming and,

(a) who is living upon and tilling his or her own land, or land to the possession of which he or she is for the time being entitled, or

(b) who is a settler engaged in clearing land for the purpose of bringing it to a state of cultivation; ("exploitant agricole")

"firearm" includes an air gun, pellet gun, bow or crossbow; ("arme à feu")

"fish" has the same meaning as in the *Fisheries Act* (Canada); ("poisson")

"furbearing mammal" means a member of a species set out in Schedule 1 or prescribed by the regulations as a species of furbearing mammal; ("mammifère à fourrure")

"game amphibian" means a member of a species set out in Schedule 5 or prescribed by the regulations as a species of game amphibian; ("amphibien gibier")

"game bird" means a member of a species set out in Schedule 3 or prescribed by the regulations as a species of game bird; ("gibier à plume")

"game bird hunting preserve" means an area in which game birds propagated under a licence are released for hunting purposes; ("réserve de chasse au gibier à plume")

"game mammal" means a member of a species set out in Schedule 2 or prescribed by the regulations as a species of game mammal; ("mammifère gibier")

"game reptile" means a member of a species set out in Schedule 4 or prescribed by the regulations as a species of game reptile; ("reptile gibier")

"game wildlife" means a furbearing mammal, game amphibian, game bird, game mammal or game reptile; ("gibier sauvage")

"hunting" includes,

(a) lying in wait for, searching for, being on the trail of, pursuing, chasing or shooting at wildlife, whether or not the wildlife is killed, injured, captured or harassed, or

(b) capturing or harassing wildlife,

except that "hunting" does not include,

(c) trapping, or

(d) lying in wait for, searching for, being on the trail of or pursuing wildlife for a purpose other than attempting to kill, injure, capture or harass it, unless the wildlife is killed, injured, captured or harassed as a result,

and "hunt" and "hunter" have corresponding meanings; ("chasse", "chasser", "chasseur")

"licence" means a licence or permit issued under this Act, and includes any document or thing deemed to be a licence by the regulations; ("permis")

"migratory bird" has the same meaning as in the *Migratory Birds Convention Act, 1994* (Canada); ("oiseau migrateur")

"Minister" means the Minister of Natural Resources; ("ministre")

"Ministry" means the Ministry of Natural Resources; ("ministère")

"motorboat" means a boat with a motor that is attached to the boat and that is capable of being used as a means of propulsion, and includes any floating object being towed by a motorboat; ("bateau à moteur")

"non-resident" means a person who is not a resident; ("non-résident")

"Ontario Fishery Regulations" means the Ontario Fishery Regulations, 1989 made under the *Fisheries Act* (Canada) and any other regulations made under that Act that apply in Ontario and that are prescribed by the regulations made under this Act; ("règlements de la pêche en Ontario")

"open season" means, with respect to a species, the period during which hunting, trapping or fishing for that species is permitted; ("saison de chasse", "saison de pêche")

"pelt" means the untanned skin of a furbearing mammal, whether or not the skin is on a carcass; ("peau")

"regulations" means the regulations made under this Act; ("règlements")

"resident" means a person whose primary residence is Ontario and who has actually resided in Ontario for a period of at least six months during the 12 months preceding the day that residence becomes material under this Act, and includes a person who belongs to a class of persons deemed to be residents by the regulations; ("résident")

"snare" means a device for the capturing of animals by a noose; ("collet")

"specially protected amphibian" means a member of a species set out in Schedule 10 or prescribed by the regulations as a species of specially protected amphibian; ("amphibien spécialement protégé")

"specially protected bird" means a specially protected raptor or a member of a species set out in Schedule 8 or prescribed by the regulations as a species of specially protected bird; ("oiseau spécialement protégé")

"specially protected invertebrate" means a member of a species set out in Schedule 11 or prescribed by the regulations as a species of specially protected invertebrate; ("invertébré spécialement protégé")

"specially protected mammal" means a member of a species set out in Schedule 6 or prescribed by the regulations as a species of specially protected mammal; ("mammifère spécialement protégé")

"specially protected raptor" means a member of a species set out in Schedule 7 or prescribed by the regulations as a species of specially protected raptor; ("rapace spécialement protégé")

"specially protected reptile" means a member of a species set out in Schedule 9 or prescribed by the regulations as a species of specially protected reptile; ("reptile spécialement protégé")

"specially protected wildlife" means a specially protected amphibian, specially protected bird, specially protected invertebrate, specially protected mammal or specially protected reptile; ("animal sauvage spécialement protégé")

"transport" includes, with respect to a thing, taking the thing from one place to another, causing the thing to be taken from one place to another or possessing the thing for the purpose of taking it or causing it to be taken from one place to another; ("transporter", "transport")

"trap" means a body-gripping trap, box trap, cage trap or net used to capture an animal or invertebrate, and "trapping" "trapper" and the verb "trap" have corresponding meanings; ("piège")

"vehicle" means any kind of vehicle that is driven, propelled or drawn on land or ice by any kind of power, including muscular power, and includes the rolling stock of a railway; ("véhicule")

"wildlife" means an animal that belongs to a species that is wild by nature, and includes game wildlife and specially protected wildlife. ("animal sauvage")

Interpretation - animal, invertebrate or fish

[\(2\)](#) A reference in this Act to an animal, invertebrate or fish, or to any word or expression that includes an animal, invertebrate or fish,

(a) includes a reference to the animal, invertebrate or fish, whether alive or dead;

(b) includes a reference to the whole or any part of the animal, invertebrate or fish;

(c) includes a reference to the animal, invertebrate or fish at any stage of its development, unless it is inside the body of its parent; and

(d) includes a reference to the animal, invertebrate or fish, whether or not it originated in Ontario.

Interpretation - gametes

[\(3\)](#) A reference in Part IV, V or VIII to an animal, invertebrate or fish, or to any word or expression that includes an animal, invertebrate or fish, includes a reference to its gamete.

Interpretation - species

[\(4\)](#) A reference in this Act to a species includes a reference to any subspecies of the species and to any other lower taxonomic classification of the species.

Interpretation - hybrids

[\(5\)](#) For the purposes of this Act, the offspring that results from the natural or artificial breeding of an animal or invertebrate, including a farmed animal, shall be deemed to belong to the species or subspecies of the parent that receives the most protection under this Act.

Interpretation - similar species

[\(6\)](#) Subject to subsection (5), for the purposes of this Act,

(a) an animal or invertebrate that is not easily distinguishable from an animal or invertebrate to which this Act applies shall be deemed, in the absence of evidence to the contrary, to belong to the same species as the animal or invertebrate to which this Act applies; and

(b) a part of an animal or invertebrate that is not easily distinguishable from a part of an animal or invertebrate to which this Act applies shall be deemed, in the absence of evidence to the contrary, to be a part of the animal or invertebrate to which this Act applies.

Interpretation - loaded firearm

[\(7\)](#) For the purposes of this Act, a firearm is loaded if,

(a) in the case of a firearm that uses shells or cartridges, there is an unfired shell or cartridge in the chamber or in a magazine attached to the firearm;

(b) in the case of a percussion muzzle-loading gun, there is a charge of powder and a projectile in the barrel and a percussion cap on the nipple;

(c) in the case of a muzzle-loading gun to which clause (b) does not apply, there is a charge of powder and a projectile in the barrel and the vent is unplugged;

(d) in the case of a gun to which clauses (a), (b) and (c) do not apply, there is a projectile in the gun or in a magazine attached to the gun;

(e) in the case of a crossbow, the bow is cocked and there is a bolt in the crossbow; and

(f) in the case of a bow other than a crossbow, the bow is strung and an arrow is nocked. 1997, c. 41, s. 1.

Endangered Species Act

[2.](#) If a provision of this Act and a provision of the *Endangered Species Act* conflict with respect to an animal, invertebrate or fish, the provision that gives the animal, invertebrate or fish the most protection prevails. 1997, c. 41, s. 2.

Farmed animals

[3. \(1\)](#) Except as specifically provided in this Act or the regulations, this Act and the regulations do not apply to farmed animals or to products made from farmed animals.

Definitions and interpretation provisions

[\(2\)](#) The definitions and interpretation provisions in section 1 apply to a provision of this Act or the regulations that applies to farmed animals or to products made from farmed animals. 1997, c. 41, s. 3.

Animals for research

[4.](#) This Act does not apply to animals that are being kept in captivity in a research facility that is registered under the *Animals for Research Act*. 1997, c. 41, s. 4.

PART II HUNTING, TRAPPING, FISHING AND RELATED ACTIVITIES

General Restrictions

No hunting or trapping of certain species

[5. \(1\)](#) A person shall not hunt or trap,

- (a) a specially protected mammal;
- (b) a specially protected amphibian;
- (c) a specially protected reptile;
- (d) a specially protected invertebrate; or
- (e) a specially protected bird or any other bird that belongs to a species that is wild by nature and is not a game bird.

Exceptions

[\(2\)](#) Clause (1) (e) does not apply to,

- (a) an American crow, brown-headed cowbird, common grackle, house sparrow, red-winged blackbird or starling;
- (b) a bird that is declared to be a migratory game bird in the Convention set out in the Schedule to the *Migratory Birds Convention Act, 1994* (Canada);
- (c) a bird that has been transported into Ontario, or propagated from stock that was transported into Ontario, and that is released with the Minister's authorization under section 54, other than a specially protected bird or a member of a species prescribed by the regulations for the purpose of this clause; or
- (d) any other bird, other than a specially protected bird, that is hunted with the authorization of the Minister. 1997, c. 41, s. 5.

Requirement for hunting or trapping licence

[6. \(1\)](#) Except under the authority of a licence and in accordance with the regulations, a person shall not hunt or trap,

- (a) a black bear, white-tailed deer, moose, caribou or elk;
- (b) a game mammal that is not referred to in clause (a);
- (c) a game bird;
- (d) a furbearing mammal;
- (e) a game reptile;
- (f) a game amphibian;
- (g) a bird referred to in subsection 5 (2); or
- (h) wildlife that is not referred to in clauses (a) to (g), the hunting of which is not prohibited by section 5.

Trappers

[\(2\)](#) Despite subsection (1)'s requirement for a licence but subject to section 9 and to any requirement for a licence under section 79, the holder of a licence to trap furbearing mammals may, in accordance with the licence and without any other licence, in the area described in the licence and to the extent that the open season falls within the period from September 1 in a year to June 30 of the following year,

- (a) hunt or trap black bear and other game mammals, other than white-tailed deer, moose, caribou or elk;
- (b) hunt game birds, other than wild turkey;
- (c) hunt birds referred to in subsection 5 (2); and
- (d) hunt wildlife referred to in clause (1) (h).

Farmers

[\(3\)](#) Despite subsection (1)'s requirement for a licence, a farmer or a member of a farmer's family who resides with the farmer may, during the open season and without a licence, on the farmer's land,

- (a) hunt or trap furbearing mammals;
- (b) hunt or trap game mammals, other than black bear, white-tailed deer, moose, caribou or elk;
- (c) hunt game birds, other than wild turkey;
- (d) hunt or trap game reptiles or game amphibians;
- (e) hunt birds referred to in subsection 5 (2); and
- (f) hunt wildlife referred to in clause (1) (h). 1997, c. 41, s. 6.

Nests and eggs

[7. \(1\)](#) A person shall not destroy, take or possess the nest or eggs of a bird that belongs to a species that is wild by nature.

Exceptions

[\(2\)](#) Subsection (1) does not apply to the nest or eggs of an American crow, brown-headed cowbird, common grackle, house sparrow, red-winged blackbird or starling.

Authorization

[\(3\)](#) Subsection (1) does not apply if the person has the authorization of the Minister.

Migratory birds

[\(4\)](#) This section does not apply to nests or eggs that are subject to the *Migratory Birds Convention Act, 1994* (Canada). 1997, c. 41, s. 7.

Dens, beaver dams, etc.

Dens: black bears

[8. \(1\)](#) A person shall not interfere with a black bear in its den or intentionally damage or destroy a black bear's den.

Dens: furbearing mammals

[\(2\)](#) A person shall not intentionally damage or destroy the den or habitual dwelling of a furbearing mammal, other than a fox or skunk, unless the person holds a licence to trap furbearing mammals.

Beaver dams

[\(3\)](#) A person shall not damage or destroy a beaver dam unless the person holds a licence to trap furbearing mammals.

Protection of property

[\(4\)](#) Subsection (3) does not apply to a person, or the agent of a person, who damages or destroys a beaver dam to protect the person's property.

Minister's authorization

[\(5\)](#) The Minister may authorize a person to do anything that would otherwise be prohibited by this section. 1997, c. 41, s. 8.

Provincial parks and Crown game preserves

[9. \(1\)](#) A person shall not hunt, trap or possess wildlife in a provincial park or Crown game preserve.

Hunting equipment

[\(2\)](#) A person shall not possess in a provincial park or Crown game preserve a firearm, trap, other hunting or trapping device, or explosive.

Exceptions

[\(3\)](#) Subsections (1) and (2) do not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 9.

Trespassing

[10. \(1\)](#) A person shall not,

- (a) enter premises in contravention of the *Trespass to Property Act* for the purpose of hunting or fishing;
- (b) enter premises in contravention of the *Trespass to Property Act* in possession of a firearm, fishing rod or other hunting or fishing device;
- (c) engage in hunting or fishing in contravention of the *Trespass to Property Act*;
- (d) fail to leave premises in contravention of the *Trespass to Property Act*, if the person was on the premises for the purpose of hunting or fishing; or
- (e) fail to leave premises in contravention of the *Trespass to Property Act*, if the person was on the premises in possession of a firearm, fishing rod or other hunting or fishing device.

Notice under *Trespass to Property Act*

[\(2\)](#) The Minister may authorize a person to give notice for the purposes of the *Trespass to Property Act* with respect to hunting or fishing on Crown land.

Interference with notice

[\(3\)](#) A person shall not interfere with any signs or markings that, under the *Trespass to Property Act*, give notice that,

- (a) hunting or fishing is prohibited; or
- (b) entry is prohibited for the purpose of hunting or fishing.

Parties of more than 12

[\(4\)](#) A person shall not enter private land in a party of more than 12 people without the express permission of the occupier if any of the members of the party possesses a firearm or other hunting device.

Land with crops

[\(5\)](#) A person shall not, for the purpose of hunting or fishing, enter or permit a dog to enter land on which any crop is growing or standing without the express permission of the occupier.

Crown land used for retention or propagation

[\(6\)](#) A person shall not enter Crown land used for the purpose of retaining wildlife or fish, propagating wildlife or culturing fish without the express permission of the Crown.

Railway lands

[\(7\)](#) Despite the *Trespass to Property Act*, the occupier of railway land,

- (a) shall not prohibit hunting or fishing on the railway land and shall not prohibit entry to the railway land for those purposes; and
- (b) shall not charge any fee for hunting or fishing on the railway land or for entry to the railway land for those purposes.

Exception

[\(8\)](#) Subsection (7) does not apply in the circumstances prescribed by the regulations.

Definitions

[\(9\)](#) In this section,

"occupier" has the same meaning as in the *Trespass to Property Act*, ("occupant")

"railway land" includes all land set apart under any Act as a land subsidy or otherwise in aid of a railway or any works related to a railway. ("terres à usage ferroviaire") 1997, c. 41, s. 10.

Hunting or trapping for gain

[11. \(1\)](#) Except with the authorization of the Minister, a person shall not,

- (a) hunt for hire, gain or the expectation of gain;
- (b) hire, employ or induce another person to hunt for gain;
- (c) trap for hire, gain or the expectation of gain;
- (d) hire, employ or induce another person to trap for gain; or
- (e) pay or accept a bounty.

Guides and black bear hunting services

[\(2\)](#) Clause (1) (a) does not apply to a guide within the meaning of section 32 or to a provider of black bear hunting services within the meaning of that section, and clause (1) (b) does not apply to a person who employs or hires the guide or the provider of black bear hunting services.

Trappers

[\(3\)](#) Clauses (1) (a) and (c) do not apply to a person who hunts or traps furbearing mammals or black bear under the authority of a licence to trap.

Same

[\(4\)](#) Clauses (1) (b) and (d) do not apply to a person who holds a licence to trap and who hires, employs or induces another person who holds a licence to trap to hunt or trap furbearing mammals or black bear on his or her behalf.

Other exceptions

[\(5\)](#) Clauses (1) (a) to (d) do not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 11.

Illegally killed wildlife, possession

[12.](#) A person shall not possess wildlife that has been killed, injured or captured contrary to this Act or the regulations. 1997, c. 41, s. 12.

Obstruction of hunting, trapping or fishing

[13. \(1\)](#) A person shall not interfere with lawful hunting, trapping or fishing by,

- (a) tampering with traps, nets, bait, firearms or any other thing used for hunting, trapping or fishing;
- (b) placing himself or herself in a position, for the purpose of interfering, that hinders or prevents hunting, trapping or fishing; or

(c) engaging in an activity, for the purpose of interfering, that disturbs or is likely to disturb wildlife or fish.

Notice without authority

[\(2\)](#) A person shall not purport to give notice that entry to premises is prohibited for the purpose of hunting or fishing or that hunting or fishing is prohibited on premises unless the person has authority to give the notice. 1997, c. 41, s. 13.

Safety and Methods

Unsafe areas

[14.](#) A person shall not hunt with a firearm in an area prescribed by the regulations as unsafe for hunting. 1997, c. 41, s. 14.

Hunter clothing

[15.](#) A person who holds a licence to hunt or trap shall, while hunting, wear coloured clothing in accordance with the regulations. 1997, c. 41, s. 15.

Firearms, careless use and injuries

Careless use

[16. \(1\)](#) A person who is in possession of a firearm for the purpose of hunting or trapping shall not discharge or handle the firearm, or cause it to be discharged or handled, without due care and attention or without reasonable consideration for people or property.

Report of injuries

[\(2\)](#) A person shall notify a conservation officer as soon as practicable if an injury requiring treatment by a physician is caused by the discharge of a firearm while the person is in possession of the firearm for the purpose of hunting or trapping. 1997, c. 41, s. 16.

Loaded firearms in hunting areas

[17. \(1\)](#) A person who is in an area usually inhabited by wildlife or who is on the way to or from an area usually inhabited by wildlife shall not,

(a) have a loaded firearm in or on a vehicle, or discharge a firearm from a vehicle;

(b) have a loaded firearm in or on a motorboat, or discharge a firearm from a motorboat, unless the person is hunting migratory birds in accordance with the regulations under the *Migratory Birds Convention Act, 1994* (Canada);

(c) have a loaded firearm in or on an aircraft, or discharge a firearm from an aircraft;

(d) in a part of Ontario prescribed by the regulations, have a loaded firearm in, or discharge a firearm in or across, a right of way for public vehicular traffic; or

(e) in a part of Ontario to which clause (d) does not apply, discharge a firearm in or across the travelled portion of a right of way for public vehicular traffic.

Unmaintained rights of way

[\(2\)](#) Clauses (1) (d) and (e) do not apply to an unmaintained right of way unless the regulations provide otherwise.

Person with disability

[\(3\)](#) Despite clauses (1) (a) and (b), the Minister may authorize a person with a disability to have a loaded firearm in a vehicle or motorboat, and to discharge a firearm from a vehicle or motorboat that is not in motion, if the person's mobility is impaired in the manner prescribed by the regulations. 1997, c. 41, s. 17.

Set firearms

[18.](#) A person shall not use a firearm to hunt wildlife in a manner designed to permit the firearm to discharge when it is not being physically held by the person. 1997, c. 41, s. 18.

Shotguns

[19.](#) A person shall not hunt with a shotgun unless the shotgun has been permanently plugged or altered so that it cannot hold a total of more than three shells at one time in the chamber and magazine. 1997, c. 41, s. 19.

Night hunting

[20. \(1\)](#) A person shall not, during the period from half an hour after sunset to half an hour before sunrise,

- (a) hunt wildlife;
- (b) have a firearm in the person's possession in an area usually inhabited by wildlife, unless the firearm is unloaded and encased; or
- (c) shine a light for the purpose of hunting wildlife.

Exceptions

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 20.

No trapping of certain mammals

[21. \(1\)](#) A person shall not kill, capture or injure a black bear, white-tailed deer, moose, caribou or elk by means of a trap, baited line or similar device.

Trapping black bear

[\(2\)](#) Despite subsection (1), the holder of a licence to trap furbearing mammals may trap black bear in accordance with subsection 6 (2) and the regulations.

No trapping of game birds

[\(3\)](#) A person shall not kill, capture or injure a game bird by means of a trap, baited line or similar device. 1997, c. 41, s. 21.

Body-gripping traps

[22. \(1\)](#) A person shall not trap wildlife or a domestic animal by means of a body-gripping trap.

Exceptions

[\(2\)](#) Subsection (1) does not apply to a person who uses a body-gripping trap in accordance with the regulations, if,

- (a) the person holds a licence to trap furbearing mammals and uses the body-gripping trap pursuant to that licence;
- (b) the person is a farmer or a member of a farmer's family and uses the body-gripping trap to trap furbearing mammals under subsection 6 (3);
- (c) the person is a farmer and uses the body-gripping trap to trap wildlife, other than a bird, under section 31;
- (d) the person uses the body-gripping trap in a part of Ontario prescribed by the regulations; or
- (e) the body-gripping trap is prescribed by the regulations as a humane trap. 1997, c. 41, s. 22.

Swimming bears, deer, etc.

[23.](#) A person shall not hunt a black bear, white-tailed deer, moose, caribou or elk while it is swimming. 1997, c. 41, s. 23.

Vehicles, boats and aircraft, use for hunting, etc.

Vehicles

[24. \(1\)](#) A person shall not use a vehicle for the purpose of killing, injuring, capturing, harassing, pursuing or chasing wildlife.

Boats

[\(2\)](#) A person shall not use a boat for the purpose of killing, injuring, capturing, harassing, pursuing or chasing wildlife.

Aircraft

[\(3\)](#) A person shall not use an aircraft while hunting.

Exceptions

[\(4\)](#) Subsections (2) and (3) do not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 24.

Hunting with dogs

[25. \(1\)](#) A person shall not use or be accompanied by a dog while hunting white-tailed deer, moose, caribou, elk or black bear, except under the authority of a licence issued in respect of that dog.

Prescribed areas

[\(2\)](#) Despite subsection (1), a person shall not use or be accompanied by a dog while hunting white-tailed deer, moose, elk or black bear in an area prescribed by the regulations.

Dog running at large

[\(3\)](#) The owner of a dog or any other person responsible for a dog shall not permit it to run at large,

(a) during the open season for white-tailed deer, moose, elk or black bear, in an area prescribed for the purpose of subsection (2); or

(b) during the closed season for white-tailed deer, moose, elk or black bear, in an area usually inhabited by that species.

Power of conservation officer

[\(4\)](#) A conservation officer may kill a dog without incurring any liability if,

(a) the dog is running at large in an area prescribed for the purpose of subsection (2) during the open season for white-tailed deer, moose, elk or black bear; or

(b) the dog is chasing white-tailed deer, moose, elk or black bear during the closed season for that species in an area usually inhabited by that species. 1997, c. 41, s. 25.

Dog training during closed season

[26.](#) A person shall not use a dog to chase game mammals or game birds during the closed season for the purpose of teaching the dog hunting skills or testing the dog's hunting skills unless the person has the authorization of the Minister. 1997, c. 41, s. 26.

Birds of prey

[27. \(1\)](#) A person shall not hunt with a specially protected raptor or any other bird of prey.

Exception

[\(2\)](#) Subsection (1) does not apply to a person who hunts in accordance with the regulations with a specially protected raptor or other bird of prey that belongs to a species prescribed by the regulations for the purpose of this subsection. 1997, c. 41, s. 27.

Ferrets

[28.](#) A person shall not hunt with a ferret. 1997, c. 41, s. 28.

Poison

[29. \(1\)](#) A person shall not use poison to kill, injure or capture wildlife.

Exceptions

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 29.

Adhesives

[30. \(1\)](#) A person shall not use adhesives to kill, injure or capture wildlife.

Exceptions

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 30.

Protection of Property

Protection of property

[31. \(1\)](#) If a person believes on reasonable grounds that wildlife is damaging or is about to damage the person's property, the person may, on the person's land,

(a) harass the wildlife for the purpose of deterring it from damaging the person's property; or

(b) capture or kill the wildlife.

Agents

[\(2\)](#) The person may use an agent to harass, capture or kill the wildlife under subsection (1) if the agent has the authorization of the Minister or belongs to a class of agents prescribed by the regulations.

Exceptions

[\(3\)](#) Subsection (1) does not apply to,

(a) a moose, caribou or elk;

(b) a white-tailed deer, unless the person harasses or kills the deer in accordance with the authorization of the Minister; or

(c) other wildlife prescribed by the regulations, unless the person harasses, captures or kills the wildlife in accordance with the authorization of the Minister.

Scope of authority

[\(4\)](#) A person who harasses, captures or kills wildlife under this section shall not harass, capture or kill more wildlife than is necessary to protect the property.

Unnecessary suffering

[\(5\)](#) A person who harasses, captures or kills wildlife under this section shall not cause it unnecessary suffering.

Certain provisions do not apply

[\(6\)](#) Sections 5 and 6, clauses 11 (1) (a) to (d), section 27 and such other provisions of this Act and the regulations as are prescribed by the regulations do not apply to a person who harasses, captures or kills wildlife under this section.

Night hunting

[\(7\)](#) Section 20 does not apply to a person who, under this section, harasses, captures or kills wildlife, other than white-tailed deer or wildlife prescribed for the purpose of clause (3) (c).

Capture and release

[\(8\)](#) Subsection 40 (1) and section 46 do not apply to a person who captures wildlife under this section and releases it in accordance with the regulations or in accordance with an authorization of the Minister.

Trapping bears

[\(9\)](#) Section 21 does not apply to an agent acting under subsection (2) who traps a black bear if the agent has the authorization of the Minister to trap black bears.

Disposal

[\(10\)](#) A white-tailed deer or other wildlife prescribed by the regulations that is captured or killed under this section shall be disposed of in accordance with the directions of the Minister. 1997, c. 41, s. 31.

Hunting and Fishing Services

Guides and black bear hunting services

[32. \(1\)](#) In this section,

"black bear hunting services" has the meaning defined by the regulations; ("services de chasse à l'ours noir")

"guide" means a person who carries out the customary duties of a hunting or sport fishing guide for gain, but does not include a person who is providing black bear hunting services. ("guide")

Licence required

[\(2\)](#) A person shall not, except under the authority of a licence and in accordance with the regulations,

- (a) act as a guide with respect to a species of wildlife prescribed by the regulations; or
- (b) provide black bear hunting services.

Exceptions

[\(3\)](#) Subsection (2) does not apply in the circumstances prescribed by the regulations.

Employment of unlicensed person

[\(4\)](#) A person shall not hire or employ a person who requires a licence under subsection (2) unless the person holds the licence.

Acting for unlicensed client

[\(5\)](#) A person who requires a licence under subsection (2) shall not provide services to a person who is engaged in hunting or fishing but who does not possess a licence required for that purpose under this Act or the Ontario Fishery Regulations. 1997, c. 41, s. 32.

Game bird hunting preserves

[33. \(1\)](#) A person shall not own or operate a game bird hunting preserve except under the authority of a licence and in accordance with the regulations.

Exceptions

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 33.

Fishing preserves

[34. \(1\)](#) A person shall not own or operate a fishing preserve except under the authority of a licence and in accordance with the regulations.

Exceptions

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 34.

Dog training and trials

[35. \(1\)](#) A person shall not own or operate an area in which wildlife is enclosed for the purpose of teaching dogs hunting skills or testing dogs' hunting skills.

Exception

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 35.

Miscellaneous

Abandoned and spoiled meat, pelts, etc.

Abandonment of meat

[36. \(1\)](#) A hunter or trapper who kills a game mammal, game bird, game amphibian or game reptile shall not abandon it if its flesh may become unsuitable for human consumption.

Spoiled flesh

[\(2\)](#) A person who possesses a game mammal, game bird, game amphibian or game reptile that was hunted or trapped shall not permit its flesh to become unsuitable for human consumption.

Abandonment or spoilage of pelts

[\(3\)](#) A hunter or trapper who kills a furbearing mammal shall not abandon the pelt or permit the pelt to be spoiled or destroyed.

Exceptions

[\(4\)](#) Subsection (3) does not apply in the circumstances prescribed by the regulations.

Abandonment or spoilage of fish

[\(5\)](#) A person who takes a fish whose flesh is suitable for human consumption shall not,

(a) abandon the fish if its flesh may become unsuitable for human consumption; or

(b) permit the flesh to become unsuitable for human consumption.

Exceptions

[\(6\)](#) Subsection (5) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 36.

Nets

Possession

[37. \(1\)](#) Except under the authority of a licence, a person shall not possess a gill net, hoop net, pound net, seine net, trap net, trawl net, trammel net, roll net or hook line.

Sale

[\(2\)](#) A person shall not sell a gill net, hoop net, pound net, seine net, trap net, trawl net, trammel net, roll net or hook line, except to a person who is authorized to possess it.

Exception

[\(3\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 37.

Ownership of bed of body of water

[38.](#) The ownership of the bed of a river, lake or navigable body of water does not give the owner the exclusive right to fish in the water that flows over the bed unless that right is granted by the Crown. 1997, c. 41, s. 38.

Education and science

[39.](#) The Minister may authorize a person to capture, kill or possess wildlife for educational or scientific purposes. 1997, c. 41, s. 39.

**PART
LIVE WILDLIFE AND FISH**

III

Wildlife in captivity

[40. \(1\)](#) A person shall not keep live game wildlife or live specially protected wildlife in captivity except under the authority of a licence and in accordance with the regulations. 1997, c. 41, s. 40 (1).

Exceptions

[\(2\)](#) Subsection (1) does not apply to,

(a) a person who keeps game amphibians or game reptiles in captivity for the purpose of personal consumption;

(b) a person who keeps in captivity for the purpose of personal education a single game reptile, game amphibian, specially protected mammal, specially protected reptile, specially protected amphibian or specially protected invertebrate, if it is not designated by the Committee on the Status of Endangered Wildlife in Canada or the Committee on the Status of Species at Risk in Ontario as endangered, threatened, special concern or vulnerable; or

(c) a person who keeps game wildlife or specially protected wildlife in captivity for any educational or scientific purpose, or for any other purpose, if the person has the authorization of the Minister. 1997, c. 41, s. 40 (2); 2002, c. 18, Sched. L, s. 3.

Other exceptions

[\(3\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 40 (3).

Hunting wildlife to keep in captivity

[\(4\)](#) A person shall not hunt or trap game wildlife or specially protected wildlife for the purpose of keeping it in captivity unless the person has the authorization of the Minister. 1997, c. 41, s. 40 (4).

Hunting animals in captivity

[41. \(1\)](#) A person shall not hunt or permit the hunting of,

(a) a farmed animal; or

(b) game wildlife, specially protected wildlife or any other wildlife prescribed by the regulations, if the wildlife is in captivity at the time it is hunted.

Exceptions

[\(2\)](#) Subsection (1) does not apply to the hunting of game birds in a game bird hunting preserve or in an area prescribed by the regulations.

Other exceptions

[\(3\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 41.

Marking birds of prey

[42.](#) A person who keeps a specially protected raptor in captivity, or who keeps another bird of prey prescribed by the regulations in captivity, shall mark it in the manner prescribed by the regulations and shall keep the records prescribed by the regulations. 1997, c. 41, s. 42.

Wildlife in transit

[43.](#) Except as prescribed by the regulations, subsection 40 (1) and section 42 do not apply to wildlife that originated outside Ontario and is in Ontario temporarily in transit or in quarantine. 1997, c. 41, s. 43.

Wildlife custodians

[44.](#) (1) In this section,

"wildlife custodian" means a person who has an authorization under subsection (2).

Rehabilitation or care

[\(2\)](#) The Minister may authorize a person to keep injured, sick or immature game wildlife or specially protected wildlife in captivity for the purpose of rehabilitating or caring for them.

No remuneration

[\(3\)](#) A wildlife custodian is not entitled to any remuneration from the Minister.

Wildlife not capable of release

[\(4\)](#) The Minister may authorize a wildlife custodian to kill injured, sick or immature game wildlife or specially protected wildlife that, in the custodian's opinion, will not be capable of being released into the wild after appropriate care.

Surrender to Minister

[\(5\)](#) On the request of the Minister, a wildlife custodian shall surrender to the Minister any game wildlife or specially protected wildlife in the custodian's possession, whether it is alive or dead, or shall dispose of it in such manner as the Minister may direct.

Liability of Crown

[\(6\)](#) The Crown in right of Ontario is not liable for any act or omission of a wildlife custodian and no action or other proceeding for damages may be instituted against the Crown in right of Ontario for any loss arising from the act or omission of a wildlife custodian. 1997, c. 41, s. 44.

Propagation of wildlife

[45.](#) (1) A person shall not propagate or offer to propagate game wildlife or specially protected wildlife, or possess it for the purpose of propagation, except under the authority of a licence and in accordance with the regulations.

Exceptions

[\(2\)](#) Subsection (1) does not apply to a person who is keeping the wildlife in captivity under clause 40 (2) (c), if the person has the authorization of the Minister. 1997, c. 41, s. 45.

Release of wildlife

[46.](#) (1) Except with the authorization of the Minister, a person shall not release,

(a) a farmed animal; or

(b) game wildlife or specially protected wildlife that is kept in captivity.

Escape

[\(2\)](#) A person who keeps a farmed animal or who keeps game wildlife or specially protected wildlife in captivity shall ensure that it does not escape.

Obligations on escape or release

[\(3\)](#) If, despite subsection (1) or (2), a farmed animal or game wildlife or specially protected wildlife escapes or is released without authorization, the person who kept it in captivity,

(a) shall immediately notify the Minister; and

(b) unless otherwise directed by the Minister, shall return the farmed animal or wildlife to captivity or kill it as soon as practicable.

Exceptions

[\(4\)](#) Subsection (3) does not apply to game wildlife or specially protected wildlife that was kept in captivity for the purpose of rehabilitation or care under section 44 or that was kept in captivity for the purpose of personal education under clause 40 (2) (b).

Certain provisions do not apply

[\(5\)](#) Sections 5 and 6, clauses 11 (1) (a) to (d), sections 20 and 27 and such other provisions of this Act and the regulations as are prescribed by the regulations do not apply to a person who captures or kills a farmed animal or wildlife under subsection (3).

Minister's powers

[\(6\)](#) If the Minister is of the opinion that a person has not complied with clause (3) (b), the Minister may capture or kill the farmed animal or wildlife without incurring any liability.

Minister's expenses

[\(7\)](#) The person who kept the farmed animal or wildlife in captivity is liable to the Minister for all expenses incurred by the Minister under subsection (6) unless the escape or release was caused by a natural disaster or act of vandalism that was beyond the control of the person. 1997, c. 41, s. 46.

Aquaculture

[47. \(1\)](#) A person shall not engage in aquaculture unless the fish that are cultured,

(a) belong to a species prescribed by the regulations; and

(b) are cultured under the authority of a licence and in accordance with the regulations.

Exception

[\(2\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 47.

PART SALE, PURCHASE AND TRANSPORT

IV

Buying or selling wildlife and pelts

[48. \(1\)](#) A person shall not buy or sell game wildlife or specially protected wildlife, including pelts, except under the authority of a licence and in accordance with the regulations.

Farmed animal pelts

[\(2\)](#) Subject to subsection (5), subsection (1) applies to the pelts of farmed animals that are furbearing mammals.

Trappers

[\(3\)](#) Despite subsection (1)'s requirement for a licence, the holder of a licence to trap furbearing mammals may, without any other licence, sell all or part of the carcass of a furbearing mammal trapped by or on behalf of the holder of the licence, including the pelt.

Authorization for furbearing mammals

[\(4\)](#) Despite subsection (1), a person may buy or sell a live furbearing mammal in accordance with the regulations if the person has the authorization of the Minister.

Other exceptions

[\(5\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 48.

Sale of animals represented as wildlife

[49.](#) A person shall not sell any animal or invertebrate that the person represents as a species of game wildlife or specially protected wildlife unless the person is authorized to sell that species of wildlife. 1997, c. 41, s. 49.

Black bear gall bladders

[50.](#) A person shall not possess a black bear gall bladder that has been removed from the bear's carcass. 1997, c. 41, s. 50.

Buying or selling fish

[51. \(1\)](#) A person shall not buy or sell fish that belong to a species that exists in Ontario waters or fish prescribed by the regulations, except under the authority of a licence and in accordance with the regulations.

Interpretation

[\(2\)](#) For the purposes of subsection (1), fish cultured in Ontario shall be deemed to belong to a species that exists in Ontario waters.

Exception

[\(3\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 51.

Serving wildlife or fish

[52. \(1\)](#) A person shall not list game wildlife, specially protected wildlife or fish on a menu, or charge for serving it, unless the person has the authorization of the Minister.

Exceptions

[\(2\)](#) Subsection (1) does not apply to,

(a) game wildlife that was propagated under the authority of a licence or was lawfully purchased by the person; or

(b) fish that was cultured under the authority of a licence or was lawfully purchased by the person. 1997, c. 41, s. 52.

Transport into Ontario

53. A person shall not transport into Ontario game wildlife or specially protected wildlife for which a licence or permit is required by the regulations without first obtaining the licence or permit. 1997, c. 41, s. 53.

Release of imports

54. (1) Except with the authorization of the Minister, a person shall not release wildlife or an invertebrate that has been transported into Ontario or has been propagated from stock that was transported into Ontario.

Escape of imports

(2) A person who possesses wildlife or an invertebrate referred to in subsection (1) shall ensure that it does not escape.

Same

(3) If, despite subsection (1) or (2), wildlife or an invertebrate referred to in subsection (1) escapes or is released without authorization, the person who possessed it,

(a) shall immediately notify the Minister; and

(b) unless otherwise directed by the Minister, shall capture or kill the wildlife or invertebrate as soon as practicable.

Certain provisions do not apply

(4) Sections 5 and 6, clauses 11 (1) (a) to (d), sections 20 and 27 and such other provisions of this Act and the regulations as are prescribed by the regulations do not apply to a person who captures or kills wildlife or an invertebrate under subsection (3).

Minister's powers

(5) If the Minister is of the opinion that a person has not complied with clause (3) (b), the Minister may capture or kill the wildlife or invertebrate without incurring any liability.

Minister's expenses

(6) The person who possessed the wildlife or invertebrate is liable to the Minister for all expenses incurred by the Minister under subsection (5) unless the escape or release was caused by a natural disaster or act of vandalism that was beyond the control of the person. 1997, c. 41, s. 54.

Transport out of Ontario

55. (1) A person shall not transport out of Ontario game wildlife or specially protected wildlife for which a licence or permit is required by the regulations without first obtaining the licence or permit.

Farmed animal pelts

(2) Subsection (1) applies to the pelts of farmed animals that are furbearing mammals.

Transport for sale or propagation

[\(3\)](#) A person shall not transport game wildlife or specially protected wildlife out of Ontario for the purpose of sale or propagation unless the person is entitled under this Act to sell or propagate the wildlife in Ontario. 1997, c. 41, s. 55.

Transport of wildlife or fish illegally killed

[56.](#) A person shall not transport wildlife or fish that was killed, captured, taken or possessed contrary to this Act, the regulations, or the *Fisheries Act* (Canada) or the regulations under that Act. 1997, c. 41, s. 56.

Transport of containers

[57. \(1\)](#) A person shall not transport a container that contains game wildlife, specially protected wildlife or fish unless the container is plainly marked on the outside with a description of the contents, the name and address of the person who is sending the container and the name and address of the person to whom the container is being sent.

Farmed animal pelts

[\(2\)](#) Subject to subsection (3), subsection (1) applies to the pelts of farmed animals that are furbearing mammals.

Exception

[\(3\)](#) Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 57.

PART LAWS OF OTHER JURISDICTIONS

V

Laws of other jurisdictions

[58. \(1\)](#) A person shall not possess wildlife, invertebrates or fish that,

(a) were killed, captured, taken, possessed, transported, bought or sold contrary to the laws of another jurisdiction; or

(b) were removed from another jurisdiction, contrary to the laws of that jurisdiction.

Sale prohibited in other jurisdiction

[\(2\)](#) A person shall not sell or offer to sell wildlife or an invertebrate that has been transported into Ontario if the sale would not be permitted in the jurisdiction from which the wildlife or invertebrate was originally exported. 1997, c. 41, s. 58.

Removing seals from pelts

[59.](#) If a pelt is transported into Ontario from a jurisdiction that requires the pelt to be sealed or marked, a person shall not remove the seal or mark or possess the pelt without the seal or mark. 1997, c. 41, s. 59.

PART LICENCES AND OTHER AUTHORITY

VI

Issuance of licences

[60.](#) The Minister may issue licences for the purposes of,

(a) this Act; and

(b) the Ontario Fishery Regulations. 1997, c. 41, s. 60.

Issuers

[61.](#) (1) The Minister may authorize a person to issue licences on the Minister's behalf.

Manual

[\(2\)](#) A person who is authorized to issue licences on the Minister's behalf shall comply with any applicable manual of instructions issued by the Minister, as it may be amended from time to time.

Fees held in trust

[\(3\)](#) Fees owing to the Crown in right of Ontario that are collected by a person who is authorized to issue licences on the Minister's behalf shall be deemed to be held in trust for the Crown. 1997, c. 41, s. 61.

Conditions on licences and authorizations

Conditions on licence - regulations

[62.](#) (1) A licence is subject to the conditions prescribed by the regulations.

Conditions on licence - Minister

[\(2\)](#) The Minister may impose written conditions on a licence that do not conflict with the regulations.

Conditions on authorization

[\(3\)](#) The Minister may impose written conditions on an authorization that he or she gives under this Act.

Examples

[\(4\)](#) For example, the conditions imposed on a licence or authorization may,

(a) limit the species to which the licence or authorization applies;

(b) limit the area to which the licence or authorization applies;

(c) limit the time during which the licence or authorization applies;

(d) limit the circumstances in which the licence or authorization applies; and

(e) if the licence or authorization authorizes the hunting or trapping of wildlife, limit the number, sex, size, age or type of wildlife that may be killed, captured or possessed or limit the methods that may be used to hunt or trap the wildlife.

Compliance with conditions

[\(5\)](#) The holder of a licence or authorization shall comply with any conditions to which the licence or authorization is subject.

Authorizations

[6](#). If a provision of this Act permits something to be done with the authorization of the Minister, the Minister may, in the authorization, permit for the purpose of the authorization any act or omission that would otherwise contravene this Act or the regulations. 1997, c. 41, s. 62.

Only one licence for certain species

[63](#). (1) A person shall not hold more than,

- (a) one licence to hunt black bear;
- (b) one licence to hunt white-tailed deer;
- (c) one licence to hunt moose;
- (d) one licence to hunt caribou; or
- (e) one licence to hunt elk.

Licence to trap furbearing mammals

[2](#). Despite clause (1) (a), a person who is authorized to hunt or trap black bear under subsection 6 (2) may also hold a licence to hunt black bear.

Exception

[3](#). Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 63.

Age limit

[64](#). (1) A licence shall not be issued to a person who is under 16 years of age.

Exception

[2](#). Subsection (1) does not apply in the circumstances prescribed by the regulations. 1997, c. 41, s. 64.

Authorizations in writing

[65](#). Every authorization given under this Act shall be in writing. 1997, c. 41, s. 65.

Licence or authorization to be carried

[66](#). A person who is hunting, trapping or fishing shall carry on his or her person any licence or authorization issued under this Act. 1997, c. 41, s. 66.

Production

[67](#). On the request of a conservation officer, the holder of a licence or authorization shall produce and show it to the officer. 1997, c. 41, s. 67.

Transfer of licences

[68](#). (1) A person shall not,

- (a) transfer a licence or any component of a licence; or
- (b) buy or sell a licence or any component of a licence.

Use of someone else's licence

[\(2\)](#) A person shall not use a licence, or any component of a licence, that was issued to someone else.

Exception

[\(3\)](#) Subsections (1) and (2) do not apply to a transfer, purchase, sale or use that is authorized by the regulations or by a manual of instructions issued by the Minister to persons who issue licences on the Minister's behalf.

Same

[\(4\)](#) A person shall not do anything to enable someone else to use a licence, or any component of a licence, that was issued to the person. 1997, c. 41, s. 68.

Incomplete licences

[69.](#) A person shall not possess a licence that does not identify the holder of the licence, that is dated earlier than its date of issuance or that is incomplete in any material respect. 1997, c. 41, s. 69.

Void licences and authorizations

[70. \(1\)](#) A licence or authorization is void if,

- (a) the licence or authorization is obtained through a false or misleading representation;
- (b) the issuance of the licence or the giving of the authorization is contrary to this Act or the regulations; or
- (c) the licence or authorization is issued or given in reliance on a licence or authorization that is void under clause (a) or (b).

Alteration without authority

[\(2\)](#) A licence or authorization becomes void if it is altered without the authorization of the Minister.

Use of void licence, etc.

[\(3\)](#) A person shall not possess, use, display or cause or permit to be displayed a void licence or authorization.

Surrender of void licence, etc.

[\(4\)](#) On the request of a conservation officer, a person shall surrender a licence or authorization that is void or that the officer believes on reasonable grounds is void. 1997, c. 41, s. 70.

Refusal of licences: general

[71.](#) The Minister may refuse to issue a licence for any reason consistent with the purposes of this Act, including the conservation or management of wildlife or fish. 1997, c. 41, s. 71.

Refusal of licences: conservation or management

[72. \(1\)](#) If the Minister refuses to issue a licence on the grounds that the refusal is reasonably necessary for the conservation or management of wildlife or fish, the Minister shall serve a notice of the refusal on the applicant.

Application

[\(2\)](#) The requirement to serve a notice under subsection (1) does not apply to a sport fishing licence, a licence to hunt, a licence to use or be accompanied by a dog while hunting, a licence or permit to transport wildlife or fish or a licence prescribed by the regulations. 1997, c. 41, s. 72.

Refusal of commercial fishing licences

[73.](#) If the Minister refuses to issue a commercial fishing licence on the grounds that the applicant is in default of the payment of royalties, the Minister shall serve a notice of the refusal on the applicant. 1997, c. 41, s. 73.

Conditions on commercial fishing

[74.](#) [\(1\)](#) If a commercial fishing licence is issued subject to conditions, the applicant may, not later than 10 days after the licence is issued, give the Minister written notice of disagreement with the conditions.

Continuation of fishing

[\(2\)](#) An applicant who gives a notice of disagreement may fish under the licence, subject to its conditions, without prejudice to a hearing under section 77 or to the decision of the Minister under that section.

Notice from Minister

[\(3\)](#) If the Minister receives a notice of disagreement, he or she shall serve a notice of receipt on the licensee. 1997, c. 41, s. 74.

Cancellation of licences

[75.](#) [\(1\)](#) The Minister may cancel a licence if he or she is of the opinion that cancellation of the licence is reasonably necessary for the conservation or management of wildlife or fish.

Application

[\(2\)](#) Subsection (1) does not apply to a sport fishing licence, a licence to hunt, a licence to use or be accompanied by a dog while hunting, a licence or permit to transport wildlife or fish or a licence prescribed by the regulations.

Notice

[\(3\)](#) If the Minister proposes to cancel a licence under subsection (1), he or she shall serve a notice proposing to cancel the licence, with reasons, on the licensee. 1997, c. 41, s. 75.

Service of notice

[76.](#) [\(1\)](#) A notice served by the Minister under section 72, 73, 74 or 75 shall be served personally or by registered mail addressed to the person to be served at the person's last known address.

Registered mail

[\(2\)](#) 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. 1997, c. 41, s. 76.

Hearing

[77.](#) [\(1\)](#) A notice under section 72, 73, 74 or 75 shall inform the person to whom the notice is given that the person may require a hearing by mailing or delivering a written request for a hearing to the Minister within 15 days after service of the notice.

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.

Parties

[\(3\)](#) The person who required the hearing and such other persons as the hearing officer may specify are parties to the hearing.

Minister entitled to be heard

[\(4\)](#) The Minister is entitled to be heard at the hearing.

Procedure

[\(5\)](#) 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.

Report

[\(6\)](#) 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, having regard to what is reasonably necessary for the conservation and management of wildlife or fish, on the merits of refusing or cancelling the licence or on the merits of the conditions imposed on the licence, as the case may be; and
- (c) the reasons for the hearing officer's opinion.

Minister's decision

[\(7\)](#) After considering the hearing officer's report, the Minister may, as the case may be,

- (a) confirm the refusal to issue the licence or decide to issue the licence;
- (b) confirm the conditions imposed on the licence or decide to remove or amend the conditions; or
- (c) carry out or refrain from carrying out the proposal to cancel the licence. 1997, c. 41, s. 77.

Cancellation for error

[78. \(1\)](#) The Minister may cancel a licence if an error was made in issuing it.

No compensation

[\(2\)](#) The licensee has no right to compensation with respect to the cancellation of a licence under this section. 1997, c. 41, s. 78.

Municipal licences

[79. \(1\)](#) A municipality may, with the authorization of the Minister, pass by-laws for issuing licences to hunt ring-necked pheasants, cottontails, varying hares and European hares in the municipality during the open season, for fixing the minimum and maximum number of licences that may be issued under a by-law and for charging such licence fees as the Minister may authorize.

Minimum number of licences

[\(2\)](#) The Minister may require that the minimum number of licences fixed by a by-law be not less than a number fixed by the Minister.

Prohibition

[\(3\)](#) Subject to subsection (5), if a by-law is passed under subsection (1), a person shall not hunt ring-necked pheasants, cottontails, varying hares or European hares in the municipality during the open season without a licence issued by the municipality.

Requirement for Minister's licence

[\(4\)](#) Subsection (3) applies in addition to section 6.

Limited authorization

[\(5\)](#) The Minister may exempt from an authorization under subsection (1) any Crown land or any land in respect of which an agreement has been entered into under subsection 81 (3).

Repeal of by-law

[\(6\)](#) The Minister may authorize a municipality to repeal a by-law passed under subsection (1) and the repealing by-law may provide for the refund, in whole or in part, of licence fees paid under the repealed by-law. 1997, c. 41, s. 79.

PART ADMINISTRATION

VII

Administration of Act

[80.](#) The Minister is responsible for the administration of this Act. 1997, c. 41, s. 80.

Acquisition of land

[81. \(1\)](#) Land may be acquired under the *Ministry of Government Services Act* for the purpose of the conservation or management of wildlife or fish populations or the ecosystems of which those populations are a part.

Gifts

[\(2\)](#) The Minister may, on behalf of the Crown in right of Ontario, accept gifts for the purpose mentioned in subsection (1).

Agreements

[\(3\)](#) The Minister or the Chair of the Management Board of Cabinet may enter into agreements for the purpose mentioned in subsection (1).

Registration

[\(4\)](#) An agreement under subsection (3) that relates to land may be registered in the proper land registry office and, during the term of the agreement, is binding on any person who acquires an interest in the land after the registration. 1997, c. 41, s. 81.

Documents

Form

[82. \(1\)](#) Subject to the regulations, the Minister may establish the form or format of any licence, authorization or other document issued under this Act, including the components of the licence, authorization or other document.

Submission

[\(2\)](#) Subject to the regulations, the Minister may establish the form or format of any document submitted under this Act, and a person who submits the document shall do so in the form or format established by the Minister.

False statements

[\(3\)](#) A person shall not make a false statement in an application for a licence or authorization or in any document required to be submitted to the Minister under this Act. 1997, c. 41, s. 82.

Fees and royalties

[83. \(1\)](#) The Minister may,

(a) establish and charge fees for any licence, document, examination or other thing required under this Act;

(b) establish and charge fees for,

(i) the use of Crown land or land acquired under section 81 for the purpose of hunting, fishing, the propagation of wildlife or invertebrates, aquaculture, or the retention of wildlife, invertebrates or fish, or

(ii) the use of facilities, equipment, services or other things provided by the Ministry relating to wildlife, invertebrates or fish; and

(c) charge royalties established in accordance with the regulations.

Refund

[\(2\)](#) The Minister may direct the refund of all or part of a fee or royalty if, in the Minister's opinion, it is equitable to do so.

Payment required

[\(3\)](#) A person shall pay any fees or royalties charged by the Minister under this Act. 1997, c. 41, s. 83.

Sale of products and services

[84.](#) The Minister may sell products and services relating to wildlife, invertebrates or fish. 1997, c. 41, s. 84.

Special purpose account

[85. \(1\)](#) All amounts received by the Crown under this Act shall be held in a separate account in the Consolidated Revenue Fund, including all fines, fees and royalties paid under this Act and all proceeds from sales under this Act, including sales of things forfeited to the Crown under this Act.

Money in account

[\(2\)](#) Money standing to the credit of the separate account is, for the purpose of the *Financial Administration Act*, money paid to Ontario for a special purpose.

Payments out of account

[\(3\)](#) The Minister may direct that money be paid out of the separate account to the Minister or a person specified by the Minister if,

(a) the payment will be used for the conservation or management of wildlife or fish populations or the ecosystems of which those populations are a part;

(b) the payment will be used for a matter related to the activities of people as they interact with or affect wildlife or fish populations, including any matter related to safety; or

(c) the payment will be used to refund all or part of a fee or royalty under subsection 83 (2).

Annual report

[\(4\)](#) The Minister shall ensure that a report is prepared annually on the financial affairs of the separate account, including a summary of advice received from any advisory committee established by the Minister relating to the operation of the separate account.

Tabling of report

[\(5\)](#) The Minister shall submit the report to the Lieutenant Governor in Council and shall table the report in the Legislative Assembly. 1997, c. 41, s. 85.

PART ENFORCEMENT

VIII

Interpretation, Part VIII - farmed animals

[86.](#) A reference in this Part to wildlife includes a reference to farmed animals. 1997, c. 41, s. 86.

Conservation officers

[87. \(1\)](#) The Minister may appoint a person or class of persons as conservation officers for the purposes of this Act.

Same

[\(2\)](#) The following persons are conservation officers for the purposes of this Act by virtue of their office:

1. A police officer or First Nations Constable appointed under the *Police Services Act*.
2. A member of the Royal Canadian Mounted Police.
3. A game officer designated under the *Migratory Birds Convention Act, 1994* (Canada).
4. A park warden designated under the *National Parks Act* (Canada), if he or she is acting under the direction of a conservation officer appointed under subsection (1).
5. A person whose primary employment responsibility is the enforcement of fish and wildlife laws in Manitoba, Quebec, Michigan, Minnesota, New York, Ohio, Pennsylvania or Wisconsin, if he or she is acting under the direction of a conservation officer appointed under subsection (1).

Production of identification

[\(3\)](#) A conservation officer who is acting under this Part shall, on request, produce identification. 1997, c. 41, s. 87.

Inspection of firearms or ammunition

88. For the purpose of this Act or the regulations, a conservation officer may inspect a firearm or ammunition in an area usually inhabited by wildlife, on a road leading to or from an area usually inhabited by wildlife or on the waters adjacent to an area usually inhabited by wildlife. 1997, c. 41, s. 88.

Inspection of vehicles, boats, aircraft

89. (1) For the purpose of this Act or the regulations, a conservation officer may stop a vehicle, boat or aircraft.

Operator to stop

(2) On the conservation officer's signal to stop, the operator of the vehicle, boat or aircraft shall immediately stop and produce for inspection any wildlife, invertebrate, fish, document or other thing requested by the officer for the purpose of this Act.

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. 1997, c. 41, s. 89.

Inspection of places

90. (1) For the purpose of this Act or the regulations, a conservation officer may enter and inspect a building or other place, including,

- (a) a building or other place where licences are issued;
- (b) a building or other place that relates to wildlife, invertebrates or fish; or
- (c) a building or other place that relates to hunting, trapping or fishing or to the transport, buying or selling of wildlife, invertebrates or fish.

Farmed animals

(2) Subsection (1) does not permit the entry or inspection of a building or other place for a purpose related to farmed animals.

Dwellings

(3) Subject to subsection (4), subsection (1) does not apply to a building or part of a building that is being used as a dwelling.

Warrant for dwelling

(4) A justice of the peace may issue a warrant authorizing a conservation officer to enter a dwelling if the justice is satisfied, by information given under oath or affirmation in an application without notice,

- (a) that the conditions required for entry under subsection (1) exist in relation to the dwelling; and
- (b) that entry to the dwelling has been refused or there are reasonable grounds to believe that entry will be refused.

Conditions in warrant

[\(5\)](#) A warrant is subject to any conditions specified in the warrant.

Time of entry

[\(6\)](#) An entry under this section shall be made at a time that is reasonable in view of the activity that is conducted in the building or other place.

Powers during inspection

[\(7\)](#) During the inspection, the conservation officer may,

- (a) inspect wildlife, invertebrates or fish;
- (b) inspect a document that is required to be kept by this Act or the regulations or that relates to wildlife, invertebrates or fish;
- (c) use or cause to be used any computer system, for the purpose of examining information contained in or available to the computer system, and produce or cause to be produced a printout or other output from the computer system;
- (d) inspect any other thing that is in the building or other place;
- (e) ask questions that may be relevant to the inspection; and
- (f) conduct any tests that may be relevant to the inspection.

Provision of information

[\(8\)](#) A person shall, during the inspection, provide information requested by the conservation officer that is relevant to the inspection.

Copies

[\(9\)](#) The conservation officer may make copies of any documents inspected or produced during the inspection.

Removal

[\(10\)](#) The conservation officer may remove any documents or things for the purpose of making copies or of further inspection, but the copying or further inspection shall be carried out with reasonable dispatch and the documents or things shall be returned promptly to the person from whom they were taken. 1997, c. 41, s. 90.

Search warrants, further search powers, etc.

[91. \(1\)](#) A conservation officer may obtain a search warrant under Part VIII of the *Provincial Offences Act*.

Searches without warrant

[\(2\)](#) If a conservation officer believes on reasonable grounds 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 search warrant would lead to the loss, removal or destruction of the evidence, the conservation officer may, without a search warrant, enter and search the building or other place.

Dwellings

[\(3\)](#) Subsection (2) does not apply to a building or part of a building that is being used as a dwelling.

Computers

[\(4\)](#) A conservation officer who is conducting a search may use or cause to be used any computer system for the purpose of examining information contained in or available to the computer system, and may produce or cause to be produced a printout or other output from the computer system.

Necessary force

[\(5\)](#) A conservation officer may use as much force as is necessary to execute a search warrant or to exercise any authority given by this section. 1997, c. 41, s. 91.

Seizure and forfeiture

[92. \(1\)](#) A conservation officer who is lawfully in a building or other place may, without a warrant, seize any thing that he or she believes on reasonable grounds,

- (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).

Presence pursuant to warrant

[\(2\)](#) If the conservation 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.

Safekeeping

[\(3\)](#) A conservation officer shall deliver any thing that he or she seizes to a person authorized by the Minister for safekeeping, unless the thing is required to be carried before a justice by a search warrant issued under Part VIII of the *Provincial Offences Act*.

Return of seized things

[\(4\)](#) 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 prosecution is finally disposed of, the defendant is acquitted or the charge is dismissed or withdrawn.

Payment of fine

[\(5\)](#) 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.

Forfeiture if identity unknown

[\(6\)](#) 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.

Forfeiture of dead wildlife, etc.

[\(7\)](#) Despite any order under Part VIII of the *Provincial Offences Act*, any dead wildlife, invertebrate or fish 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.

Forfeiture of live wildlife, etc.

[\(8\)](#) Despite any order under Part VIII of the *Provincial Offences Act*, any live wildlife, invertebrate or fish 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.

Forfeiture on conviction

[\(9\)](#) If a person is convicted of an offence under this Act,

(a) any wildlife, invertebrate or fish seized in connection with the offence, and any cage, shelter or enclosure seized in connection with the wildlife, invertebrate or fish, 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.

Application of subs. (9)

[\(10\)](#) Subsection (9) applies in addition to any other penalty.

Forfeiture if possession is an offence

[\(11\)](#) 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.

Application of subs. (11)

[\(12\)](#) Subsection (11) applies whether or not a charge is laid in respect of the thing seized and, if a charge is laid, subsection (11) applies even if the defendant is acquitted or the charge is dismissed or withdrawn.

Disposition of forfeited thing

[\(13\)](#) A thing forfeited to the Crown in right of Ontario shall be disposed of in accordance with the directions of the Minister.

Application by person with interest

[\(14\)](#) 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.

Conditions

[\(15\)](#) An order made under subsection (14) is subject to such conditions as may be imposed by the justice.

Exception

[\(16\)](#) Subsections (14) and (15) do not apply to a thing forfeited under subsection (7) or (8).

Costs of seizure, etc.

[\(17\)](#) If a person is convicted of an offence under this Act, the justice may, in addition to any other penalty, order the person to pay all or part of any expenses incurred by the Minister with respect to the seizure, storage or disposition of any thing seized in connection with the offence.

Definition

[\(18\)](#) In this section,

"justice" has the same meaning as in the *Provincial Offences Act*, 1997, c. 41, s. 92.

Arrest without warrant

[93. \(1\)](#) A conservation officer may arrest without warrant a person that he or she believes on reasonable grounds is committing, has committed or is preparing to commit an offence under this Act.

Necessary force

[\(2\)](#) A conservation officer may use as much force as is necessary to make an arrest under this section.

Release

[\(3\)](#) If a conservation 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 the summons or offence notice or will not appear in court.

Person to be taken before justice

[\(4\)](#) Section 150 of the *Provincial Offences Act* applies if the person arrested is not released. 1997, c. 41, s. 93.

Entry on private land

[94.](#) A conservation officer acting under this Act may enter private land and may authorize any other person acting under his or her direction to enter private land, with or without the officer, for the purpose of assisting the officer. 1997, c. 41, s. 94.

Exemption from Act or regulations, conservation officers

95. The Minister, for the purpose of investigations and other law enforcement activities under this Act, may exempt a conservation officer from the application of any provision of this Act or the regulations, subject to such conditions as the Minister considers necessary. 1997, c. 41, s. 95.

Obstruction of conservation officer

96. A person shall not,

(a) knowingly make a false or misleading statement to a conservation officer who is acting under this Act; or

(b) otherwise obstruct a conservation officer who is acting under this Act. 1997, c. 41, s. 96.

PART OFFENCES AND PENALTIES

IX

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.

PART REGULATIONS

X

Regulations: LG in C

112. The Lieutenant Governor in Council may make regulations,

1. prescribing species for the purpose of the definition of "farmed animal" in subsection 1 (1);
2. prescribing species for the purpose of the definition of "furbearing mammal", "game amphibian", "game bird", "game mammal", "game reptile", "specially protected amphibian", "specially protected bird", "specially protected invertebrate", "specially protected mammal", "specially protected raptor" or "specially protected reptile" in subsection 1 (1);
3. prescribing regulations made under the *Fisheries Act* (Canada) for the purpose of the definition of "Ontario Fishery Regulations" in subsection 1 (1);
4. prohibiting or regulating the hunting, trapping or possession of wildlife, other than,
 - i. prescribing open seasons or closed seasons for wildlife,
 - ii. prescribing times of day during which the hunting of wildlife is or is not permitted, or
 - iii. prescribing limits on the number of wildlife of a species, sex, size, age or type prescribed by the regulations that may be killed, captured or possessed;
5. prohibiting or regulating hunting or trapping by non-residents;
6. deeming a class of persons to be residents;
7. prescribing parts of Ontario as Crown game preserves for the purposes of this Act and prohibiting or regulating entry to or activities in Crown game preserves;
8. prescribing areas as unsafe for hunting for the purpose of section 14;
9. prescribing, for the purpose of section 15, coloured clothing that shall be worn while hunting;

10. respecting public safety in connection with hunting or trapping activities, including prohibiting or regulating activities that may pose a threat to the safety of the public;
11. prescribing, for the purpose of clause 17 (1) (d), parts of Ontario in which a person shall not have a loaded firearm in, or discharge a firearm in or across, a right of way for public vehicular traffic;
12. defining "unmaintained right of way" for the purpose of subsection 17 (2) and prescribing circumstances in which clause 17 (1) (d) or (e) applies to an unmaintained right of way despite that subsection;
13. prescribing the manner in which a person's mobility must be impaired before he or she may obtain an authorization under subsection 17 (3);
14. prescribing parts of Ontario in which body-gripping traps may be used under clause 22 (2) (d) and prescribing types of body-gripping traps as humane traps for the purpose of clause 22 (2) (e);
15. prohibiting or regulating the use or possession for the purposes of hunting or trapping of firearms and prohibiting or regulating the use or possession of blinds, decoys, traps or other hunting or trapping devices;
16. prescribing, for the purpose of subsection 25 (2), areas where a person shall not use or be accompanied by a dog while hunting white-tailed deer, moose, elk or black bear;
17. prescribing species of specially protected raptors and other birds of prey that a person may hunt with under subsection 27 (2);
18. prohibiting or regulating hunting with specially protected raptors, other birds of prey, dogs or other animals;
19. prescribing classes of agents for the purpose of subsection 31 (2);
20. prescribing, for the purpose of clause 31 (3) (c), wildlife that may be harassed, captured or killed only in accordance with the authorization of the Minister;
21. governing the harassing, capturing or killing of wildlife under section 31 and governing the release of wildlife captured under that section;
22. prescribing provisions of this Act and the regulations that do not apply to a person who harasses, captures or kills wildlife under section 31;
23. prescribing, for the purpose of subsection 31 (10), wildlife that shall be disposed of in accordance with the directions of the Minister;
24. prescribing species of wildlife for the purpose of clause 32 (2) (a) and governing guides within the meaning of that section;
25. defining "black bear hunting services" for the purpose of section 32 and prohibiting or regulating the provision of black bear hunting services in areas specified by the regulations;
26. governing game bird hunting preserves;
27. defining "fishing preserve" for the purpose of section 34 and governing fishing preserves;
28. governing the keeping of game wildlife and specially protected wildlife in captivity;
29. prescribing, for the purpose of clause 41 (1) (b), wildlife that a person shall not hunt or permit the hunting of while the wildlife is in captivity;

30. prescribing, for the purpose of subsection 41 (2), areas in which game birds may be hunted while they are in captivity;
31. prescribing birds of prey for the purpose of section 42, prescribing the manner of marking specially protected raptors and other birds of prey under that section and prescribing the records that shall be kept under that section;
32. prescribing circumstances in which subsection 40 (1) or section 42 applies, despite section 43, to wildlife that originated outside Ontario and that is in Ontario temporarily in transit or in quarantine;
33. prescribing provisions of this Act and the regulations that do not apply to a person acting under subsection 46 (3) or 54 (3), subject to such conditions as are prescribed by the regulations;
34. governing the propagation of game wildlife and specially protected wildlife;
35. governing aquaculture and prescribing, for the purposes of clause 47 (1) (a), species of fish that may be cultured;
36. governing the buying or selling of game wildlife or specially protected wildlife, including pelts;
37. requiring pelts to be sealed or marked in accordance with the regulations and governing the sealing and marking of pelts;
38. prohibiting or regulating the possession, tanning, treating or plucking of pelts;
39. governing the buying or selling of fish and prescribing, for the purpose of subsection 51 (1), fish that do not exist in Ontario waters that can be bought or sold only under the authority of a licence;
40. requiring, for the purpose of section 53, a licence or permit to transport into Ontario game wildlife or specially protected wildlife that is prescribed by the regulations;
41. requiring, for the purpose of subsection 55 (1), a licence or permit to transport out of Ontario game wildlife or specially protected wildlife that is prescribed by the regulations, including pelts;
42. governing the issuance, renewal, transfer, refusal, suspension or cancellation of licences, including the qualifications for licences and requirements to complete courses and pass examinations approved by the Minister or by other persons;
43. limiting the number of licences of any class that may be issued and establishing a system for limiting the number;
44. prescribing conditions to which a licence is subject;
45. authorizing a licence or component of a licence to be transferred, bought, sold or used, for the purpose of subsection 68 (3);
46. authorizing a person who holds a licence to trap to designate another person to hunt or trap under the licence in his or her stead, and governing the making of the designation and the effect of the designation;
47. governing the form or format of a licence, authorization or other document issued under this Act, including the components of the licence, authorization or other document;
48. deeming a document or other thing to be a licence;
49. prescribing licences to which subsection 72 (1) or 75 (1) does not apply;

50. establishing and governing the calculation and payment of royalties for pelts, furbearing mammals, fish or bait for fishing captured, killed or taken for commercial purposes;

51. requiring and governing the registration for the purposes of this Act of wildlife or invertebrates;

52. requiring records to be kept for the purposes of this Act, requiring information to be submitted to the Minister or another person for the purposes of this Act and governing the submission of the information;

53. governing the form or format of any document submitted under this Act;

54. prescribing exemptions from subsection 9 (1) or (2), subsection 10 (7), clauses 11 (1) (a) to (d), or subsection 20 (1), 24 (2), 24 (3), 29 (1), 30 (1), 32 (2), 33 (1), 34 (1), 36 (3), 36 (5), 37 (1), 40 (1), 41 (1), 47 (1), 48 (1), 51 (1), 57 (1), 63 (1) or 64 (1), subject to such conditions as are prescribed by the regulations;

55. exempting a person from subsection 35 (1) if, on June 9, 1997, the person owned and operated an area in which wildlife was enclosed for the purpose of teaching dogs hunting skills or testing dogs' hunting skills, prescribing conditions to which the exemption is subject, governing the management and operation of the area by the exempted person and exempting persons who use the area for teaching dogs hunting skills or testing dogs' hunting skills from section 6 or 26. 1997, c. 41, s. 112.

Regulations: Minister

113. (1) The Minister may make regulations,

1. prescribing species of birds that cannot be hunted or trapped under clause 5 (2) (c);
2. prescribing open seasons or closed seasons for wildlife;
3. prescribing times of day during which the hunting of wildlife is or is not permitted;
4. prescribing limits on the number of wildlife of a specified species, sex, size, age or type that may be killed, captured or possessed;
5. prohibiting or regulating the destruction, taking or possession of eggs of specially protected amphibians or specially protected reptiles;
6. respecting hunter or trapper education;
7. prohibiting or regulating the harvesting, propagation, transport, use, buying or selling of bait for fishing;
8. prohibiting or regulating the placing of huts on ice for the purpose of fishing, regulating their use, and requiring and regulating their removal;
9. prescribing wildlife management units, bear management areas, trapline areas and other areas for the purposes of this Act or the regulations.

Concurrent authority

(2) The Lieutenant Governor in Council may make any regulation that the Minister has authority to make and may amend or revoke any regulation made by the Minister.

Same

(3) The Minister may amend or revoke a provision of a regulation if the provision was made or amended by the Lieutenant Governor in Council under subsection (2). 1997, c. 41, s. 113.

Scope of regulations

[114.](#) (1) A regulation made under this Act may be general in its application or may apply only to,

- (a) a specified activity, species, licence, device or other thing, or a specified class of activities, species, licences, devices or other things;
- (b) a specified part of Ontario; or
- (c) a specified period of time.

Farmed animal pelts

[\(2\)](#) A regulation made under paragraph 36, 37, 38, 41 or 54 of section 112 that applies to pelts may provide that it applies to the pelts of farmed animals that are furbearing mammals.

Licence requirements

[\(3\)](#) A regulation made under this Act that regulates or governs an activity may require a licence to engage in the activity. 1997, c. 41, s. 114.

[115.-126.](#) Omitted (amends or repeals other Acts). 1997, c. 41, ss. 115-126.

[127.](#) Omitted (provides for coming into force of provisions of this Act). 1997, c. 41, s. 127.

[128.](#) Omitted (enacts short title of this Act). 1997, c. 41, s. 128.

Note: The Minister may amend or revoke a regulation made by the Lieutenant Governor in Council under the *Game and Fish Act* that relates to a matter in respect of which the Minister may make regulations under this Act.

The Lieutenant Governor in Council may amend or revoke a regulation made by the Minister under the *Game and Fish Act*. See: 1997, c. 41, ss. 119 (4, 5), 127.

SCHEDULE 1

FURBEARING MAMMALS

Common Name	Scientific Name
Badger	<i>Taxidea taxus</i>
Beaver	<i>Castor canadensis</i>
Bobcat	<i>Lynx rufus</i>
Coyote	<i>Canis latrans</i>
Fisher	<i>Martes pennanti</i>
Fox, Arctic	<i>Alopex lagopus</i>
Fox, Gray	<i>Urocyon cinereoargenteus</i>
Fox, Red (all colour phases)	<i>Vulpes vulpes</i>

Lynx	<i>Lynx canadensis</i>
Marten	<i>Martes americana</i>
Mink	<i>Mustela vison</i>
Muskrat	<i>Ondatra zibethicus</i>
Opossum	<i>Didelphis virginiana</i>
Otter	<i>Lutra canadensis</i>
Raccoon	<i>Procyon lotor</i>
Skunk, Striped	<i>Mephitis mephitis</i>
Squirrel, Red	<i>Tamiasciurus hudsonicus</i>
Weasel, Least	<i>Mustela nivalis</i>
Weasel, Long-tailed	<i>Mustela frenata</i>
Weasel, Short-tailed (Ermine)	<i>Mustela erminea</i>
Wolf	<i>Canis lupus</i>

1997, c. 41, Sched. 1.

SCHEDULE 2

GAME MAMMALS

Common Name	Scientific Name
Bear, Black	<i>Ursus americanus</i>
Caribou, Woodland	<i>Rangifer tarandus</i>
Cottontail	<i>Sylvilagus floridanus</i>
Deer, White-tailed	<i>Odocoileus virginianus</i>
Elk, American (Wapiti)	<i>Cervus elaphus</i>
Hare, European	<i>Lepus europaeus</i>
Hare, Varying (Snowshoe)	<i>Lepus americanus</i>
Moose	<i>Alces alces</i>
Squirrel, Gray (Black)	<i>Sciurus carolinensis</i>
Squirrel, Fox	<i>Sciurus niger</i>

1997, c. 41, Sched. 2.

SCHEDULE 3

GAME BIRDS

Common Name	Scientific Name
Bobwhite, Northern	<i>Colinus virginianus</i>
Grouse, Ruffed	<i>Bonasa umbellus</i>
Grouse, Sharp-tailed	<i>Tympanuchus phasianellus</i>
Grouse, Spruce	<i>Dendragapus canadensis</i>
Partridge, Gray (Hungarian)	<i>Perdix perdix</i>
Pheasant, Ring-necked	<i>Phasianus colchicus</i>
Ptarmigan, Rock	<i>Lagopus mutus</i>
Ptarmigan, Willow	<i>Lagopus lagopus</i>
Turkey, Wild	<i>Meleagris gallopavo</i>

1997, c. 41, Sched. 3.

SCHEDULE 4

GAME REPTILES

Common Name	Scientific Name
Turtle, Common Snapping	<i>Chelydra serpentina serpentina</i>

1997, c. 41, Sched. 4.

SCHEDULE 5

GAME AMPHIBIANS

Common Name	Scientific Name
Bullfrog	<i>Rana catesbeiana</i>

1997, c. 41, Sched. 5.

SCHEDULE 6

SPECIALLY PROTECTED MAMMALS

Common Name	Scientific Name
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Bat, Big Brown	<i>Eptesicus fuscus</i>
Bat, Eastern Pipistrelle	<i>Pipistrellus subflavus</i>
Bat, Hoary	<i>Lasiurus cinereus</i>
Bat, Least (Small-footed)	<i>Myotis leibii</i>
Bat, Little Brown	<i>Myotis lucifugus</i>
Bat, Northern Long-eared	<i>Myotis septentrionalis</i>
Bat, Red	<i>Lasiurus borealis</i>
Bat, Silver-haired	<i>Lasiurus noctivagans</i>
Chipmunk, Eastern	<i>Tamias striatus</i>
Chipmunk, Least	<i>Tamias minimus</i>
Flying Northern Squirrel,	<i>Glaucomys sabrinus</i>
	<i>Glaucomys volans</i>
Flying Southern Squirrel,	<i>Sorex arcticus</i>
Shrew, Arctic	<i>Sorex cinereus</i>
Shrew, (Masked) Cinereus	<i>Cryptotis parva</i>
Shrew, Least	<i>Blarina brevicauda</i>
Shrew, Short-tailed Northern	<i>Sorex hoyi</i>
Shrew, Pygmy	<i>Sorex fumeus</i>
Shrew, Smoky	<i>Sorex palustris</i>
Shrew, Water	

1997, c. 41, Sched. 6.

SCHEDULE 7

SPECIALLY PROTECTED BIRDS (RAPTORS)

Common Name	Scientific Name
Eagle, Bald	<i>Haliaeetus leucocephalus</i>
Eagle, Golden	<i>Aquila chrysaetos</i>

Falcon, Peregrine	<i>Falco peregrinus</i>
Goshawk, Northern	<i>Accipiter gentilis</i>
Gyr Falcon	<i>Falco rusticolus</i>
Harrier, Northern	<i>Circus cyaneus</i>
Hawk, Broad-winged	<i>Buteo platypterus</i>
Hawk, Cooper's	<i>Accipiter cooperii</i>
Hawk, Red-shouldered	<i>Buteo lineatus</i>
Hawk, Red-tailed	<i>Buteo jamaicensis</i>
Hawk, Rough-legged	<i>Buteo lagopus</i>
Hawk, Sharp-shinned	<i>Accipiter striatus</i>
Kestrel, American	<i>Falco sparverius</i>
Kite, American	<i>Elanoides forficatus</i>
Swallow-tailed	<i>Falco columbarius</i>
Merlin	<i>Pandion haliaetus</i>
Osprey	<i>Strix varia</i>
Owl, Barred	<i>Aegolius funereus</i>
Owl, Boreal	<i>Athene cunicularia</i>
Owl, Burrowing	<i>Tyto alba</i>
Owl, Barn	<i>Otus asio</i>
Owl, Eastern Screech	<i>Strix nebulosa</i>
Owl, Great Gray	<i>Bubo virginianus</i>
Owl, Great Horned	<i>Asio otus</i>
Owl, Long-eared	<i>Surnia ulula</i>
Owl, Northern Hawk	<i>Aegolius acadicus</i>
Owl, Northern Saw-whet	<i>Asio flammeus</i>
Owl, Short-eared	<i>Nyctea scandiaca</i>
Owl, Snowy	<i>Cathartes aura</i>
Vulture, Turkey	

1997, c. 41, Sched. 7.

SCHEDULE 8

SPECIALLY PROTECTED BIRDS (OTHER THAN RAPTORS)

Common Name	Scientific Name
Blackbird, Brewer's	<i>Euphagus cyanocephalus</i>
Blackbird, Rusty	<i>Euphagus carolinus</i>
Blackbird, Yellow-headed	<i>Xanthocephalus xanthocephalus</i>
Jay, Blue	<i>Cyanocitta cristata</i>
Jay, Gray	<i>Perisoreus canadensis</i>
Kingfisher, Belted	<i>Ceryle alcyon</i>
Pelican, White	<i>Pelecanus erythrorhynchos</i>
Raven, Common	<i>Corvus corax</i>

1997, c. 41, Sched. 8.

SCHEDULE 9

SPECIALLY PROTECTED REPTILES

Common Name	Scientific Name
Racer, Blue	<i>Coluber constrictor foxi</i>
Rattlesnake, Eastern Massasauga	<i>Sistrurus catenatus catenatus</i>
Skink, Five-lined	<i>Eumeces fasciatus</i>
Snake, Black Rat	<i>Elaphe obsoleta obsoleta</i>
Snake, Butler's Garter	<i>Thamnophis butleri</i>
Snake, Eastern Fox	<i>Elaphe vulpina gloydi</i>
Snake, Eastern Hognose	<i>Heterodon platyrhinos</i>
Snake, Eastern Smooth Green	<i>Opheodrys vernalis vernalis</i>
Snake, Lake Erie Water	<i>Nerodia sipedon insularum</i>

Snake, Milk		<i>Lampropeltis triangulum</i>
Snake, Water	Northern	<i>Nerodia sipedon</i>
Snake, Queen		<i>Regina septemvittata</i>
Softshell, Spiny	Eastern	<i>Trionyx spiniferus</i>
Turtle, Blanding's		<i>Emydoidea blandingii</i>
Turtle, Map		<i>Graptemys geographica</i>
Turtle, Midland Painted		<i>Chrysemys marginata picta</i>
Turtle, Musk		<i>Chrysemys marginata picta</i>
Turtle, Spotted		<i>Sternotherus odoratus</i>
Turtle, Painted	Western	<i>Clemmys guttata</i>
Turtle, Wood		<i>Chrysemys picta bellii</i>
		<i>Clemmys insculpta</i>

1997, c. 41, Sched. 9.

SCHEDULE 10

SPECIALLY PROTECTED AMPHIBIANS

Common Name	Scientific Name
Frog, Blanchard's Cricket	<i>Acris crepitans blanchardi</i>
Salamander, Blue-spotted	<i>Ambystoma laterale</i>
Salamander, Eastern Tiger	<i>Ambystoma tigrinum tigrinum</i>
Salamander, Four-toed	<i>Hemidactylium scutatum</i>
Salamander, Jefferson	<i>Ambystoma jeffersonianum</i>
Salamander, Northern Dusky	<i>Desmognathus fuscus fuscus</i>
Salamander, Redback	<i>Plethodon cinereus</i>
Salamander, Smallmouth	<i>Ambystoma texanum</i>
	<i>Ambystoma</i>

Salamander, Spotted	<i>maculatum</i>
Salamander, Two-lined	<i>Eurycea bislineata</i>
Toad, Fowler's	<i>Bufo woodhousi fowleri</i>
Treefrog, Gray	<i>Hyla versicolor</i>

1997, c. 41, Sched. 10.

SCHEDULE 11

SPECIALLY PROTECTED INVERTEBRATES

Common Name	Scientific Name
Butterfly, Karner Blue	<i>Lycaeides melissa</i>
Butterfly, Monarch	<i>Danaus plexippus</i>
Butterfly, West Virginia White	<i>Pieris virginiensis</i>
Dusky Wing, Mottled	<i>Erynnis martialis</i>
Elfin, Bog	<i>Incisalia lanoraieensis</i>
Elfin, Frosted	<i>Incisalia irus</i>
Swallowtail, Black	<i>Papilio polyxenes</i>
Swallowtail, Giant	<i>Papilio cresthontes</i>
Swallowtail, Old World	<i>Papilio machaon</i>
Swallowtail, Pipevine	<i>Battus philenor</i>
Swallowtail, Spicebush	<i>Papilio troilus</i>
Swallowtail, Tiger	<i>Papilio glaucus</i>
Swallowtail, Zebra	<i>Eurytides marcellus</i>

1997, c. 41, Sched. 11.

Note: Despite the repeal of the *Game and Fish Act* by the Statutes of Ontario, 1997, chapter 41, subsection 119 (1), a licence, permit or authorization issued under the *Game and Fish Act* that authorized an activity continues to authorize that activity until the date the licence, permit or authorization would have expired under that Act. See: 1997, c. 41, ss. 119 (3), 127.

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