



**Canada National Marine Conservation Areas Act ( 2002, c. 18 )**

Disclaimer: These documents are not the official versions ([more](#)).

Act current to June 2nd, 2007

Attention: See coming into force provision and notes, where applicable.

[Table Of Contents](#)    [Back to search results](#)

## Canada National Marine Conservation Areas Act

### 2002, c. 18

C-7.3

[Assented to June 13th, 2002]

An Act respecting the **national marine conservation areas** of **Canada**

#### Preamble

Whereas the protection of natural, self-regulating **marine** ecosystems is important for the maintenance of biological diversity;

Whereas the Government of **Canada** is committed to adopting the precautionary principle in the **conservation** and management of the **marine** environment so that, where there are threats of environmental damage, lack of scientific certainty is not used as a reason for postponing preventive measures;

And whereas Parliament wishes to affirm the need to

establish a system of **marine conservation areas** that are representative of the Atlantic, Arctic and Pacific Oceans and the Great Lakes and are of sufficient extent and such configuration as to maintain healthy **marine** ecosystems,

ensure that **Canada** contributes to international efforts for the establishment of a worldwide network of representative **marine** protected areas,

consider implications for ecosystems in the planning and management of **marine conservation areas** so established,

provide opportunities for the people of **Canada** and of the world to appreciate and enjoy **Canada's** natural and cultural **marine** heritage,

recognize that the **marine** environment is fundamental to the social, cultural and economic well-being of people living in coastal communities,

provide opportunities, through the zoning of **marine conservation areas**, for the ecologically sustainable use of **marine** resources for the lasting benefit of coastal communities,

promote an understanding of the **marine** environment and provide opportunities for research and monitoring,

consider traditional ecological knowledge in the planning and management of **marine conservation areas**, and

involve federal and provincial ministers and agencies, affected coastal communities, aboriginal organizations, aboriginal governments, bodies established under land claims agreements and other appropriate persons and bodies in the effort to establish and maintain the representative system of

marine conservation areas;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

## SHORT TITLE

### Short title

1. This Act may be cited as the *Canada National Marine Conservation Areas Act*.

## INTERPRETATION

### Definitions

2. (1) The definitions in this subsection apply in this Act. "disposal"  
«immersion »

"disposal" has the same meaning as in section 122 of the *Canadian Environmental Protection Act, 1999*, read without reference to the sea.

"ecosystem"  
«écosystème »

"ecosystem" means a dynamic complex of animal, plant and microorganism communities and their non-living environment interacting as a functional unit.

"enforcement officer"  
«agent de l'autorité »

"enforcement officer" means a person designated under section 19 or belonging to a class of persons so designated.

"fishing"  
«pêche »

"fishing" has the meaning given to that expression in the *Fisheries Act*.

"marine conservation area"  
«aire marine de conservation »

"marine conservation area" means a national marine conservation area of Canada named and described in Schedule 1.

"marine conservation area warden"  
«garde d'aire marine de conservation »

"marine conservation area warden" means a person designated under section 18.

"Minister"  
«ministre »

"Minister" means the Minister responsible for the Parks Canada Agency.

"public lands"  
«terres domaniales »

"public lands" means lands, including submerged lands, that belong to Her Majesty in right of Canada or that the Government of Canada has the power to dispose of, whether or not subject to the terms of any agreement between the Government of Canada and the government of a province.

"reserve"  
«*réserve*»

"reserve" means a national marine conservation area reserve of Canada named and described in Schedule 2.

"superintendent"  
«*directeur*»

"superintendent" means a person appointed under the *Parks Canada Agency Act* who holds the office of superintendent of a marine conservation area, and includes any other person appointed under that Act who is authorized by that person to act on that person's behalf.

"waste or other matter"  
«*déchets ou autres matières*»

"waste or other matter" means waste or other matter listed in Schedule 5 to the *Canadian Environmental Protection Act, 1999*.

### Aboriginal rights

(2) For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

### Exclusive economic zone

(3) The establishment of a marine conservation area within the exclusive economic zone of Canada does not constitute a claim to any rights, jurisdiction or duties beyond those set out in section 14 of the *Oceans Act*.

### Application of Act to reserves

(4) This Act applies to a reserve as if it were a marine conservation area.

2002, c. 18, s. 2; 2005, c. 2, s. 6.

## HER MAJESTY

### Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada or of a province.

## MARINE CONSERVATION AREAS

### Purpose

4. (1) Marine conservation areas are established in accordance with this Act for the purpose of protecting and conserving representative marine areas for the benefit, education and enjoyment of the people of Canada and the world.

### Purpose of reserves

(2) Reserves are established in accordance with this Act for the purpose referred to in subsection (1) where an area or a portion of an area proposed for a marine conservation area is subject to a claim in respect of aboriginal rights that has been accepted for negotiation by the Government of Canada.

### Management and use

(3) Marine conservation areas shall be managed and used in a sustainable manner that meets the needs of present and future generations without compromising the structure and function of the ecosystems, including the submerged lands and water column, with which they are associated.

### Zones

(4) Each marine conservation area shall be divided into zones, which must include at least one zone that

fosters and encourages ecologically sustainable use of marine resources and at least one zone that fully protects special features or sensitive elements of ecosystems, and may include other types of zones.

#### Establishment or enlargement

5. (1) Subject to section 7, for the purpose of establishing or enlarging a marine conservation area, consisting of submerged lands and waters within the internal waters, territorial sea or exclusive economic zone of Canada and any coastal lands or islands within Canada, the Governor in Council may, by order, amend Schedule 1 by adding the name and a description of the area or by altering the description of the area.

#### Title to lands

(2) An amendment to Schedule 1 under this section or subsection 6(2) may be made only if

(a) the Governor in Council is satisfied that Her Majesty in right of Canada has clear title to or an unencumbered right of ownership in the lands to be included in the marine conservation area, other than such lands situated within the exclusive economic zone of Canada;

(b) in a case where Her Majesty in right of a province had the administration and control of any of the lands to be included in the marine conservation area, the government of the province agreed to the use of those lands as a marine conservation area and transferred their administration and control to Her Majesty in right of Canada for that purpose; and

(c) the requirements of any applicable land claim agreement respecting the establishment of the marine conservation area have been fulfilled.

#### Judicial finding as to title

(3) If a court of competent jurisdiction finds that Her Majesty in right of Canada does not have clear title to or an unencumbered right of ownership in lands within a marine conservation area, the Governor in Council may, by order, amend Schedule 1 by removing the name and description of the area or by altering the description of the area.

#### No reduction of area

(4) Except as provided by subsection (3), no amendment may be made by the Governor in Council to Schedule 1 for the purpose of removing any portion of a marine conservation area.

#### Establishment or enlargement of reserves

6. (1) Subject to section 7, for the purpose of establishing or enlarging a reserve, consisting of submerged lands and waters within the internal waters or territorial sea of Canada and any coastal lands or islands within Canada, the Governor in Council may, by order, amend Schedule 2 by adding the name and a description of the reserve or by altering the description of the reserve.

#### Reserve becoming marine conservation area

(2) Where a claim described in subsection 4(2) is settled, the Governor in Council may, by order,

(a) amend Schedule 2 by removing the name and description of the reserve or by altering the description of the reserve; and

(b) if the settlement provides that the reserve or part of it is to become a marine conservation area or part of one, amend Schedule 1 by adding the name and a description of the area or by altering the description of the area.

#### Judicial finding as to title

(3) If a court of competent jurisdiction finds that Her Majesty in right of Canada does not have clear title to or an unencumbered right of ownership in lands within a reserve, the Governor in Council may, by order, amend Schedule 2 by removing the name and description of the reserve or by altering the description of the reserve.

#### No reduction of area

(4) Except as provided by subsections (2) and (3), no amendment may be made by the Governor in Council

to Schedule 2 for the purpose of removing any portion of a reserve.

#### Amendment to be tabled in Parliament

7. (1) Before an amendment is made to Schedule 1 or 2 for a purpose referred to in subsection 5(1) or 6(1), respectively, the proposed amendment shall be laid before each House of Parliament together with a report on the proposed marine conservation area or reserve, which report shall include

- (a) information on consultations undertaken, including a list of the names of organizations and persons consulted, the dates of the consultation and a summary of their comments,
- (b) any agreements reached respecting the establishment of the area or reserve,
- (c) the results of any assessments of mineral and energy resources undertaken, and
- (d) an interim management plan that sets out management objectives and a zoning plan,

and an amendment so laid stands referred to the standing committee of each House that normally considers matters relating to marine conservation areas or to such other committee as that House may designate for the purposes of this section.

#### Disapproval by committee

(2) The committee of each House may, within 30 sitting days after the amendment is tabled, report to the House that it disapproves the amendment, in which case a motion to concur in the report shall be put to the House in accordance with its procedures.

#### Amendment allowed

(3) A proposed amendment to Schedule 1 or 2 may be made if 31 sitting days have elapsed after the tabling of the amendment in both Houses and no motion referred to in subsection (2) has been proposed in either House.

#### Amendment not allowed

(4) A proposed amendment to Schedule 1 or 2 may not be made if either House passes a motion referred to in subsection (2).

## ADMINISTRATION

#### Management by Minister

8. (1) The Minister is responsible for the administration, management and control of marine conservation areas in relation to matters not assigned by law to any other Minister of the Crown.

#### Administration of lands

(2) The Minister has the administration of public lands in marine conservation areas.

#### Facilities and research

(3) The Minister may maintain and operate facilities and carry out operations and activities to achieve the purposes of this Act, and may conduct scientific research and monitoring and carry out studies based on traditional ecological knowledge, including traditional aboriginal ecological knowledge, in relation to marine conservation areas.

#### Agreements

(4) The Minister may enter into agreements with other federal and provincial ministers and agencies, local and aboriginal governments, bodies established under land claims agreements and other persons and organizations for carrying out the purposes of this Act.

#### Management plans

**9.** (1) The Minister shall, within five years after a marine conservation area is established, in consultation with relevant federal and provincial ministers and agencies, with affected coastal communities, aboriginal organizations, aboriginal governments and bodies established under land claims agreements, and with other persons and bodies that the Minister considers appropriate, prepare a management plan for the marine conservation area that includes a long-term ecological vision for the marine conservation area and provision for ecosystem protection, human use, zoning, public awareness and performance evaluation, which shall be tabled in each House of Parliament.

#### Review of management plans by Minister

(2) The Minister shall review the management plan of a marine conservation area at least every five years, and any amendments to the plan shall be tabled with the plan in each House of Parliament.

#### Primary considerations

(3) In order to protect marine ecosystems and maintain marine biodiversity, the primary considerations in the development and modification of management plans and interim management plans shall be principles of ecosystem management and the precautionary principle.

#### Minister of Fisheries and Oceans

(4) Provisions of a management plan or an interim management plan respecting fishing, aquaculture and fisheries management are subject to an agreement between the Minister and the Minister of Fisheries and Oceans.

#### Minister of Transport and Minister of Fisheries and Oceans

(4.1) Provisions of a management plan or an interim management plan respecting marine navigation and marine safety are subject to an agreement between the Minister, the Minister of Transport and the Minister of Fisheries and Oceans.

#### Land claims agreements

(5) If a marine conservation area includes an area that is the subject of a land claims agreement, the management plan or interim management plan for the marine conservation area and any amendments to it shall be prepared in a manner consistent with any applicable provisions of the agreement.

2002, c. 18, s. 9; 2005, c. 29, s. 34.

#### Consultation

**10.** (1) The Minister shall consult with relevant federal and provincial ministers and agencies, with affected coastal communities, aboriginal organizations, aboriginal governments and bodies established under land claims agreements, and with other persons and bodies that the Minister considers appropriate in the development of marine conservation area policy and regulations, the establishment of any proposed marine conservation area and the modification of any marine conservation area, and any other matters that the Minister considers appropriate.

#### Progress reports

(2) At least every two years, the Minister shall cause to be tabled in each House of Parliament a report on the state of marine conservation areas and on progress towards completion of a representative system of marine conservation areas.

#### Area advisory committees

**11.** (1) The Minister shall, for each marine conservation area, establish a management advisory committee to advise the Minister on the formulation, review and implementation of the management plan for the area.

#### Other advisory committees

(2) The Minister may establish other advisory committees to review and evaluate any aspect of marine conservation area policy or administration.

#### Composition

(3) The Minister shall consult with relevant federal and provincial ministers and agencies, with affected coastal communities, aboriginal organizations, aboriginal governments and bodies established under land claims agreements, and with other persons and bodies that the Minister considers appropriate with respect to the composition of advisory committees.

## PROHIBITIONS

### No disposition or use without authority

12. Except as permitted by this Act or the regulations,

(a) no interest in public lands in a marine conservation area may be disposed of; and

(b) no person shall use or occupy public lands in a marine conservation area.

### Exploration and exploitation

13. No person shall explore for or exploit hydrocarbons, minerals, aggregates or any other inorganic matter within a marine conservation area.

### Disposal of substances

14. (1) No person shall dispose of any substance in waters within a marine conservation area except as authorized by a permit issued by a superintendent pursuant to this Act or, in the case of waters to which subsection 125(1) of the *Canadian Environmental Protection Act, 1999* applies, authorized by section 130 of that Act or by a permit issued by the Minister of the Environment pursuant to section 127 or 128 of that Act.

### Permits under *CEPA, 1999*

(2) No permit may be issued under section 127 or 128 of the *Canadian Environmental Protection Act, 1999* for disposal in the waters of a marine conservation area except with the concurrence of the Minister.

### Permits and authorizations

15. (1) To the extent authorized by the regulations, the superintendent of a marine conservation area may issue, amend, suspend and revoke permits and other authorizing instruments for activities that are consistent with the management plan or interim management plan in the marine conservation area.

### Fishing licences

(2) A fishing licence issued under the *Fisheries Act* is deemed to be a permit issued under this Act to carry out the activities permitted by the licence, subject to regulations made under subsection 16(1) on the recommendation of the Minister and the Minister of Fisheries and Oceans.

### Superintendent may not amend

(3) For greater certainty, the superintendent of a marine conservation area may not amend, suspend or revoke a fishing licence issued under the *Fisheries Act*.

## REGULATIONS

### Regulations

16. (1) The Governor in Council may make regulations, consistent with international law, for the control and management of any or all **marine conservation areas**, including regulations

(a) for the protection of ecosystems and the elements of ecosystems;

(b) for the protection of cultural, historical and archaeological resources;

(c) for the management and control of renewable resource harvesting activities;

- (d) respecting the delimitation of zones within **marine conservation areas**;
- (e) restricting or prohibiting activities or regulating the use of facilities in **marine conservation areas** or in any zones;
- (f) respecting the issuance, amendment, suspension and revocation of permits and other authorizing instruments pursuant to section 15, including the number of persons who may hold any class of permits or other instruments and the authority of superintendents to impose conditions on holders of permits or other instruments;
- (g) respecting the determination of fees, rates, rents and other charges for the use of resources, facilities and services and the issuance and amendment of permits and other authorizing instruments;
- (h) authorizing the granting, and the surrender or relinquishment, of leases, licences, easements or servitudes, of or over public lands in **marine conservation areas** for uses compatible with section 4;
- (i) respecting the safety of the public;
- (j) for the control of the flight of aircraft to prevent danger or disturbances to wildlife and wildlife habitat, and respecting the takeoff, landing and taxiing of aircraft;
- (k) for the control of scientific research activities;
- (l) authorizing the disposal of waste or other matter by persons holding permits for that purpose, in the manner and to the extent specified in the regulations, in waters of a **marine conservation area** to which subsection 125(1) of the *Canadian Environmental Protection Act, 1999* does not apply; and
- (m) exercising, in relation to **marine conservation areas**, any of the powers to make regulations conferred on the Governor in Council by the *Canada National Parks Act*.

### Search and rescue operations

(1.1) Regulations made under this section do not apply in respect of search and rescue operations carried out by any federal authority.

### Fisheries and aquaculture

(2) Regulations under this section respecting fisheries management and **conservation** or restricting or prohibiting fishing or aquaculture may be made only on the recommendation of the Minister and the Minister of Fisheries and Oceans.

### Marine matters

(3) Regulations under this section restricting or prohibiting **marine** navigation or activities related to **marine** safety may be made only on the recommendation of the Minister and the Minister of Transport.

### Air navigation

(4) Regulations under paragraph (1)(j) that restrict or prohibit air navigation may be made only on the recommendation of the Minister and the Minister of Transport.

### Conflicts

(5) Regulations referred to in subsection (2), (3) or (4) prevail over regulations made under the *Fisheries Act*, the *Coastal Fisheries Protection Act*, the *Canada Shipping Act*, the *Arctic Waters Pollution Prevention Act*, the *Navigable Waters Protection Act* or the *Aeronautics Act* to the extent of any conflict between them.

2002, c. 18, s. 16; 2005, c. 29, s. 35.

### Exemption of ship and air movements and activities

17. The Governor in Council may, by regulation, exempt from any regulation made under section 16 or from

any provision thereof, subject to any conditions that the Governor in Council considers appropriate, movements or activities of a ship or aircraft, or of a class of ships or aircraft, owned by or operated by or on behalf of Her Majesty in right of Canada, or owned or operated by Her Majesty in right of a province or by a foreign state, if so recommended by the Minister and any other minister of the Crown having responsibility in relation to the movement or activity and if the Governor in Council is satisfied that the exemption is necessary

(a) in the interests of Canadian sovereignty or security; or

(b) for the conduct of any maritime activity by Canada, a province or a foreign state that is consistent with the purposes of this Act.

## ENFORCEMENT

### Designation of marine conservation area wardens

**18.** The Minister may designate persons appointed under the *Parks Canada Agency Act* whose duties include the enforcement of this Act to be marine conservation area wardens

(a) for the enforcement of this Act and the regulations in any part of Canada or the exclusive economic zone of Canada, and

(b) for the preservation and maintenance of the public peace in marine conservation areas, except in any portion of them situated within the exclusive economic zone of Canada,

and marine conservation area wardens are, for those purposes, peace officers within the meaning of the *Criminal Code*.

### Designation of enforcement officers

**19.** The Minister may designate persons or classes of persons employed in the public service of Canada or by a provincial, municipal or local authority or an aboriginal government, whose duties include law enforcement, to be enforcement officers for the purpose of the enforcement of specified provisions of this Act or the regulations in specified marine conservation areas, and for that purpose enforcement officers have the powers and are entitled to the protection provided by law to peace officers within the meaning of the *Criminal Code*.

### Certificate of designation and oath

**20.** (1) Every marine conservation area warden and enforcement officer shall be provided with a certificate of designation in a form approved by the Minister and shall take and subscribe an oath prescribed by the Minister.

### Limitation of powers

(2) A certificate of designation provided to an enforcement officer shall specify the provisions of this Act or the regulations that the enforcement officer has the power to enforce and the marine conservation areas in which that power applies.

### Crossing private property

(3) In the discharge of their duties, marine conservation area wardens, enforcement officers and persons accompanying them may enter on and pass through or over private property.

### Arrest by warden or officer

**21.** (1) A marine conservation area warden or enforcement officer may, in accordance with and subject to the *Criminal Code*, arrest without warrant any person whom the warden or officer finds committing an offence under this Act or who, on reasonable grounds, the warden or officer believes has committed or is about to commit an offence under this Act.

### Arrest by warden

(2) A marine conservation area warden may, in accordance with and subject to the *Criminal Code*, arrest without warrant any person whom the warden finds committing an offence under any other Act in a marine

conservation area, except in any portion of it situated within the exclusive economic zone of Canada.

#### Search and seizure

**22.** (1) A marine conservation area warden or enforcement officer may

(a) enter and search any place and open and examine any package or receptacle in accordance with a warrant issued under subsection (2) at any time during the day or, if so specified in the warrant, during the night; and

(b) seize any thing that the warden or officer believes on reasonable grounds is a thing described in subsection (2).

#### Authority to issue warrant

(2) If a justice of the peace, on *ex parte* application, is satisfied by information on oath that there are reasonable grounds to believe that there is in any place, including any building, boat or other conveyance, or in any package or receptacle,

(a) any thing in relation to which there are reasonable grounds to believe an offence under this Act or the regulations has been committed, or

(b) any thing that there are reasonable grounds to believe will afford evidence with respect to the commission of such an offence,

the justice of the peace may issue a warrant authorizing a marine conservation area warden or enforcement officer named in the warrant to enter and search the place or to open and examine the package or receptacle, subject to any conditions specified in the warrant.

#### Where warrant not necessary

(3) A marine conservation area warden or enforcement officer may exercise any powers under subsection (1) without a warrant if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would not be practical to obtain one.

#### Custody of things seized

**23.** (1) Subject to subsections (2) and (3) and sections 25 and 26, where a marine conservation area warden or enforcement officer seizes a thing under this Act or under a warrant issued pursuant to the *Criminal Code*,

(a) sections 489.1 and 490 of the *Criminal Code* apply; and

(b) the warden or officer, or any person that the warden or officer may designate, shall retain custody of the thing subject to any order made under section 490 of the *Criminal Code*.

#### Forfeiture where ownership not ascertainable

(2) If the lawful ownership of or entitlement to a seized thing cannot be ascertained within 30 days after its seizure, the thing, or any proceeds of its disposition, are forfeited to Her Majesty in right of Canada, if the thing was seized by a marine conservation area warden or enforcement officer employed in the public service of Canada, or to Her Majesty in right of a province, if the thing was seized by an enforcement officer employed by a provincial, municipal or local authority or an aboriginal government.

#### Perishable things

(3) Where a seized thing is perishable, the marine conservation area warden or enforcement officer may dispose of it or destroy it, and any proceeds of its disposition shall be paid to the lawful owner or person lawfully entitled to possession of the thing, unless proceedings under this Act are commenced within 90 days after its seizure, or shall be retained by the warden or officer pending the outcome of those proceedings.

## OFFENCES AND PUNISHMENT

#### Contravention of Act or regulations

**24.** (1) Every person who contravenes a provision of this Act or the regulations, or a condition of a permit or other authorizing instrument issued pursuant to the regulations, is

(a) guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$100,000; or

(b) guilty of an indictable offence and liable to a fine not exceeding \$500,000.

#### Continuing offences

(2) If a contravention of this Act or the regulations is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

#### Injunction

(3) Whether or not proceedings have been commenced with respect to an offence under this Act, Her Majesty in right of Canada may undertake or continue proceedings to prevent conduct that constitutes such an offence.

#### Forfeiture of things seized

**25.** (1) When a person is convicted of an offence under this Act, the convicting court may, in addition to any punishment imposed, order that any seized thing by means of or in relation to which the offence was committed, or any proceeds of its disposition, be forfeited to Her Majesty in right of Canada.

#### Return where no forfeiture ordered

(2) If the convicting court does not order the forfeiture, a seized thing or the proceeds of its disposition shall be returned to its lawful owner or the person lawfully entitled to it.

#### Retention or sale

(3) If a fine is imposed on a person convicted of an offence under this Act, any seized thing or any proceeds of its disposition may be retained until the fine is paid or the thing may be sold in satisfaction of the fine and the proceeds applied, in whole or in part, in payment of the fine.

#### Disposition by Minister

**26.** Any seized thing that has been forfeited under this Act to Her Majesty in right of Canada or abandoned by its owner may be dealt with and disposed of as the Minister may direct.

#### Orders of court

**27.** (1) When a person is convicted of an offence under this Act, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order

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

(b) directing the person to take any action the court considers appropriate to remedy or avoid any harm to any element of the ecosystems of a marine conservation area that resulted or may result from the commission of the offence;

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

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

(e) requiring the person to comply with any other conditions that the court considers appropriate.

### Suspended sentence

(2) Where a person is convicted of an offence under this Act and the court suspends the passing of sentence under paragraph 731(1)(a) of the *Criminal Code*, the court may, in addition to any probation order made under that paragraph, make an order referred to in subsection (1).

### Imposition of sentence

(3) If the person does not comply with the order or is convicted of another offence, the court may, within three years after the order was made, on the application of the prosecution, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

### Limitation or prescription

**28.** (1) Proceedings by way of summary conviction may be commenced not later than two years after the day on which the subject-matter of the proceedings becomes known to the Minister.

### Minister's certificate

(2) A document purporting to have been issued by the Minister, certifying the day on which the subject-matter of any proceedings became known to the Minister, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and is evidence of the matters asserted in it.

## MITIGATION OF ENVIRONMENTAL DAMAGE

### Pollution clean-up

**29.** (1) Where a substance that is capable of degrading the environment or injuring any animal, fish or plant is discharged or deposited within a marine conservation area, any person who has charge, management or control of the substance or who causes or contributes to the discharge or deposit shall take reasonable measures to prevent or mitigate such degradation or injury.

### Powers of Minister

(2) If the Minister is of the opinion that a person is not taking measures required by subsection (1), the Minister shall direct the person to take those measures and, if the person fails to do so, the Minister may direct those measures to be taken on behalf of Her Majesty in right of Canada.

### Expenses of clean-up

(3) A person who fails to comply with a direction given by the Minister under subsection (2) is liable for the expenses reasonably incurred by Her Majesty in right of Canada in taking the measures directed and those expenses may be recovered from that person, with costs, in proceedings brought in the name of Her Majesty in any court of competent jurisdiction.

### Exception

(4) No measures may be directed to be taken under subsection (2) to prevent or mitigate any degradation or injury if action may be taken under the *Canada Shipping Act*, the *Arctic Waters Pollution Prevention Act* or the *Canadian Environmental Protection Act, 1999*, to prevent or mitigate the same degradation or injury.

## CONSEQUENTIAL AMENDMENTS

**30. to 41.** [Amendments]

SCHEDULE 1  
(Sections 2, 5 and 6)

MARINE CONSERVATION AREAS

SCHEDULE 2

RESERVES

**AMENDMENTS NOT IN FORCE**

-- **2001, c. 26, s. 322:**

Bill C-10

**322. (1) If Bill C-10, introduced in the 1st session of the 37th Parliament and entitled the *Canada National Marine Conservation Areas Act* (the "other Act"), receives royal assent, then the provisions mentioned in subsections (2) to (4) are amended as provided in those subsections. (2) On the later of the coming into force of section 1 of this Act and subsection 16(3) of the other Act, subsection 16(3) of the other Act is replaced by the following:**

Marine matters

(3) Regulations under this section that restrict or prohibit marine navigation or activities related to marine safety, to the extent that such regulations can be made on the recommendation of the Minister of Transport under the *Canada Shipping Act, 2001* or the *Arctic Waters Pollution Prevention Act*, may only be made on the recommendation of the Minister and the Minister of Transport. **(3) On the later of the coming into force of section 1 of this Act and subsection 16(5) of the other Act, subsection 16(5) of the other Act is replaced by the following:**

Conflicts

(5) Regulations referred to in subsection (2), (3) or (4) prevail over regulations made under the *Fisheries Act*, the *Coastal Fisheries Protection Act*, the *Canada Shipping Act, 2001*, the *Arctic Waters Pollution Prevention Act*, the *Navigable Waters Protection Act* or the *Aeronautics Act* to the extent of any conflict between them. **(4) On the later of the coming into force of section 1 of this Act and subsection 29(4) of the other Act, subsection 29(4) of the other Act is replaced by the following:**

Exception

(4) No measures may be directed to be taken under subsection (2) to prevent or mitigate any degradation or injury if action may be taken under the *Canada Shipping Act, 2001*, the *Arctic Waters Pollution Prevention Act* or the *Canadian Environmental Protection Act, 1999*, to prevent or mitigate the same degradation or injury.--  
**2005, c. 29, s. 34:**

**34. Subsection 9(4) of the *Canada National Marine Conservation Areas Act* is replaced by the following:**

Minister of Fisheries and Oceans

(4) Provisions of a management plan or an interim management plan respecting fishing, aquaculture and fisheries management are subject to an agreement between the Minister and the Minister of Fisheries and Oceans.

Minister of Transport and Minister of Fisheries and Oceans

(4.1) Provisions of a management plan or an interim management plan respecting marine navigation and marine safety are subject to an agreement between the Minister, the Minister of Transport and the Minister of Fisheries and Oceans.--  
**2005, c. 29, s. 35:**

**35. Subsections 16(2) and (3) of the Act are replaced by the following:**

Fisheries and aquaculture

(2) Regulations under this section respecting fisheries management and conservation or restricting or prohibiting fishing or aquaculture may be made only on the recommendation of the Minister and the Minister of Fisheries and Oceans.

Marine matters

(3) Regulations under this section restricting or prohibiting marine navigation or activities related to marine

safety may be made only on the recommendation of the Minister and the Minister of Transport.

Last updated: 2007-07-06



[Important Notices](#)