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C.C.S.M. c. E111

The Endangered Species and Ecosystems Act

(Assented to March 15, 1990)

WHEREAS HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, recognizes that

- (a) plant and animal species and ecosystems are of ecological, educational, esthetic, historical, medical, recreational and scientific value to Manitoba and the residents of Manitoba, and
- (b) it is critical that coordinated efforts be made to protect plant and animal species and ecosystems that are at risk and to promote their recovery;

[S.M. 2013, c. 38, s. 3.](#)

NOW THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

PART I INTERPRETATION

Definitions

1(1) In this Act,

"**advisory committee**" means the Endangered Species and Ecosystems Advisory Committee continued under section 6; (« Comité consultatif »)

"**Crown agency**" means a board, commission, association or other body, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors of which, are appointed by an Act of the Legislature or by the Lieutenant Governor in Council; (« organisme de la Couronne »)

"**department**" means the department of government over which the minister presides; (« ministère »)

"**development**" means a development as defined in *The Environment Act*; (« exploitation »)

"**ecosystem**" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit; (« écosystème »)

"**endangered species**" means a species that is declared an endangered species under subsection 8(1); (« espèce en voie de disparition »)

"**extirpated species**" means a species declared to be an extirpated species under subsection 8(4); (« espèce déracinée »)

"**habitat**" means an area of land, water or air that contains the natural resources on which a species depends for its life cycle; (« habitat »)

"**indigenous**", in reference to a species, means a species that is a breeding resident of Manitoba, or in some manner or degree occurs naturally in Manitoba, but does not include a species that was deliberately or accidentally introduced by people; (« indigène »)

"**minister**" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

"**officer**" means

(a) a person appointed as an officer under *The Wildlife Act*,

(b) a peace officer appointed under an Act of the Legislature or the Parliament of Canada, or

(c) an officer appointed under the *Customs Act* (Canada); (« agent »)

"species" means a variety, race, breed, individual kind or other taxonomic type of plant or animal life and includes a population of one or more species and the eggs, larvae or other forms of developmental life of the species; (« espèce »)

"species of special concern" means a species that is declared a species of special concern under subsection 8(5); (« espèce préoccupante »)

"threatened species" means a species that is declared a threatened species under subsection 8(2). (« espèce menacée »)

Reference to "Act" includes regulations

1(2) In this Act, a reference to "this Act" includes the regulations made under this Act.

Interpretation — reintroduction of extirpated species

1(3) For the purpose of this Act, an extirpated species may be reintroduced into Manitoba as the result of actions authorized by department officials or by natural movements or migration of the species.

S.M. 1993, c. 3, s. 2; S.M. 2013, c. 38, s. 4.

Purposes

2(1) The purposes of this Act are:

- (a) to ensure the protection and to enhance the survival of endangered and threatened species and species of special concern in the province;
- (b) to enable the reintroduction of extirpated species into the province; and
- (c) to conserve and protect endangered and threatened ecosystems in the province and promote the recovery of those ecosystems.

Conflict with other Acts

2(2) Where a provision of this Act conflicts with a provision of another Act of the Legislature, this Act prevails unless the other Act expressly provides that the other Act prevails.

S.M. 1993, c. 3, s. 3; S.M. 2013, c. 38, s. 5.

Application

3(1) This Act applies to species wherever occurring in Manitoba, including species occurring on private lands.

Crown bound

3(2) The Crown in right of Manitoba and Crown agencies are bound by this Act.

PART II ADMINISTRATION

4 [Repealed]

S.M. 2013, c. 38, s. 6.

5 [Repealed]

S.M. 1993, c. 3, s. 4; S.M. 2013, c. 38, s. 6.

Delegating minister's powers

5.1 The minister may delegate to an employee of the government any power conferred or duty imposed on the minister under this Act.

S.M. 2013, c. 38, s. 7.

Advisory committee continued

6(1) The Endangered Species Advisory Committee is continued as the Endangered Species and Ecosystems Advisory Committee.

Committee under direction of minister

6(2) The advisory committee shall act under the direction of the minister.

Membership of advisory committee

6(3) The Lieutenant Governor in Council shall, subject to subsection (4), appoint the members of the advisory committee.

Scientists in the majority

6(4) A majority of the members appointed under subsection (3) shall be professional scientists who have, to the satisfaction of the minister, expertise in a field of science related to plant and animal life.

Remuneration of committee members

6(5) Members of the advisory committee may be paid remuneration determined by the Lieutenant Governor in Council.

S.M. 1993, c. 3, s. 5; S.M. 2013, c. 38, s. 8.

Role of advisory committee

6.1(1) The advisory committee is responsible for providing advice and recommendations to the minister with respect to

- (a) species that are endangered, threatened, extirpated or that are of special concern; and
- (b) ecosystems that are endangered or threatened.

Annual recommendations

6.1(2) The advisory committee must provide the minister with its advice and recommendations respecting the matters set out in subsection (1) each year.

S.M. 2013, c. 38, s. 9.

Studies by advisory committee

6.2(1) The minister may direct the advisory committee to conduct a study on any matter relating to plants, animal life, ecosystems or biodiversity in the province.

Report to minister

6.2(2) When the advisory committee conducts a study at the direction of the minister, the committee must provide the minister with a report setting out its findings and any recommendations it may have on the matter in question.

S.M. 2013, c. 38, s. 9.

Acquisition of property

7(1) Where the minister considers it necessary for the protection or reintroduction of an endangered, threatened or extirpated species, a species of special concern or the protection of an endangered or threatened ecosystem, the minister may, on behalf of the Crown in right of Manitoba, acquire real property by purchase, lease, gift, exchange, bequest or expropriation.

Expropriation Act applies

7(2) Where real property is acquired by expropriation under subsection (1), the expropriation and the compensation payable to the owner of the real property are governed by *The Expropriation Act*.

S.M. 1993, c. 3, s. 6; S.M. 2013, c. 38, s. 10.

PART III SPECIES AT RISK

Endangered species

8(1) Where the Lieutenant Governor in Council determines that a species indigenous to Manitoba is threatened with imminent extinction or with extirpation throughout all or a significant

portion of its Manitoba range, the Lieutenant Governor in Council may, by regulation, declare the species an endangered species.

Threatened species

8(2) Where the Lieutenant Governor in Council determines that a species indigenous to Manitoba

- (a) is likely to become endangered; or
- (b) is, because of low or declining numbers in Manitoba, particularly at risk if the factors affecting its vulnerability do not become reversed;

the Lieutenant Governor in Council may, by regulation, declare the species a threatened species.

8(3) [Repealed] S.M. 2013, c. 38, s. 12.

Extirpated species

8(4) Where the Lieutenant Governor in Council determines that a species formerly indigenous to Manitoba no longer exists in the wild in Manitoba but exists elsewhere, the Lieutenant Governor in Council may, by regulation, declare the species an extirpated species.

Species of special concern

8(5) Where the Lieutenant Governor in Council determines that a species indigenous to Manitoba is at risk of becoming a threatened or endangered species because of a combination of biological characteristics and identified threats to the species, the Lieutenant Governor in Council may, by regulation, declare the species to be a species of special concern.

S.M. 1993, c. 3, s. 7; S.M. 2013, c. 38, s. 12.

Recovery strategy for threatened and endangered species

8.1(1) When a species has been designated an endangered or threatened species, the department must prepare a recovery strategy that sets out the steps to be taken to prevent any further reductions of the species and to promote the recovery of the species.

Recovery strategy for extirpated species

8.1(2) When a species has been designated an extirpated species, the department must prepare a recovery strategy that sets out the steps to be taken to reintroduce the species in Manitoba, unless the minister determines that it is not practicable to reintroduce the species.

Management plan for species of special concern

8.1(3) When a species has been designated a species of special concern, the department must prepare a plan that sets out the steps to be taken to manage the population of the species.

S.M. 2013, c. 38, s. 13.

Regulations

9(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the preservation and survival of the habitat of an endangered species, a threatened species, a species of special concern or an extirpated species that has been reintroduced;
- (b) prohibiting or restricting the entry by any person into an area of the province specified in the regulation where an endangered species, a threatened species, a species of special concern or an extirpated species that has been reintroduced, is or is likely to be located; and
- (b.1) prohibiting or regulating the entry into the province or any specified area of the province of any species of plant or animal or any other thing that poses a threat to an endangered species, a threatened species, a species of special concern or an extirpated species that has been reintroduced;
- (b.2) exempting a person or class of persons from specified provisions of this Act in prescribed circumstances;
- (c) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

Scope of regulations

9(2) Any regulation may be made to apply generally or to particular species, or to particular periods of time or areas of Manitoba.

S.M. 1993, c. 3, s. 8; S.M. 2013, c. 38, s. 14.

Prohibition

10(1) No person shall

- (a) kill, injure, possess, disturb or interfere with a member of an endangered species, a threatened species, or an extirpated species that has been reintroduced;
- (b) destroy, disturb or interfere with the habitat of an endangered species, a threatened species or an extirpated species that has been reintroduced; or
- (c) damage, destroy, obstruct or remove a natural resource on which an endangered species, a threatened species or an extirpated species that has been reintroduced depends for its life and propagation.

Exception

10(2) Subsection (1) does not apply to a person

- (a) who acts under the authority of a permit issued by the minister under section 11;
- (b) who is exempted from the application of this Act under section 12; or
- (c) who acts under the authority of a licence issued under *The Environment Act*, if the minister is satisfied with respect to the matters described in clauses 12(1)(a) and (b).

S.M. 1993, c. 3, s. 9; S.M. 2013, c. 38, s. 15.

Permits by minister

11(1) A person may apply to the minister for, and the minister may issue to the person, a permit authorizing the person to

- (a) kill, take, collect or capture; or
- (b) collect or capture and hold alive;

members of an endangered or threatened species for scientific purposes or for purposes related to the protection, management or reintroduction of endangered, threatened or extirpated species.

Permits subject to conditions

11(2) A permit under subsection (1) may be issued for a term and subject to such conditions as the minister considers appropriate.

Suspension, cancellation of permit

11(3) The minister may suspend, cancel or revoke a permit issued under subsection (1).

S.M. 1993, c. 3, s. 10; S.M. 2013, c. 38, s. 16.

Exemption of developments

12(1) The minister may exempt an existing or proposed development from the application of this Act if the minister is satisfied that

- (a) protection and preservation of the species and its habitat is assured; or
- (b) appropriate measures are established, or will be established, to reduce to a minimum the impact of the development upon the species and its habitat.

Statutes and Regulations Act does not apply

12(2) *The Statutes and Regulations Act* does not apply to an exemption under subsection (1).

S.M. 2013, c. 38, s. 17; S.M. 2013, c. 39, Sch. A, s. 54.

PART III.1

ENDANGERED AND THREATENED ECOSYSTEMS

Endangered ecosystems

12.1(1) Where the Lieutenant Governor in Council determines that the continued viability of an ecosystem is at serious risk throughout all or a significant portion of its Manitoba range, the

Lieutenant Governor in Council may, by regulation, declare the ecosystem an endangered ecosystem.

Threatened ecosystems

[12.1\(2\)](#) Where the Lieutenant Governor in Council determines that an ecosystem is at risk of becoming endangered, the Lieutenant Governor in Council may, by regulation, declare the ecosystem a threatened ecosystem.

Description of ecosystem

[12.1\(3\)](#) A regulation under this section must contain a description of the designated ecosystem.

[S.M. 2013, c. 38, s. 18.](#)

Recovery strategy

[12.2](#) When an ecosystem has been designated an endangered or threatened ecosystem, the department must prepare a recovery strategy that sets out the steps to be taken to prevent any further losses of the ecosystem and to promote the recovery of the ecosystem.

[S.M. 2013, c. 38, s. 18.](#)

Ecosystem preservation zones

[12.3\(1\)](#) The Lieutenant Governor in Council may establish and maintain a system of ecosystem preservation zones in the province.

Designating ecosystem preservation zones

[12.3\(2\)](#) When an ecosystem has been designated as an endangered or threatened ecosystem, the Lieutenant Governor in Council may, by regulation, designate an area of Crown land that contains examples of that ecosystem as an ecosystem preservation zone.

[S.M. 2013, c. 38, s. 18.](#)

Regulations

[12.4](#) When an ecosystem preservation zone has been designated, the Lieutenant Governor in Council may make regulations to protect the ecosystem located in the zone, including regulations

- (a) prohibiting or restricting entry into the ecosystem preservation zone;
- (b) respecting the issuance, suspension and cancellation of licences or permits to enter the ecosystem preservation zone;
- (c) prohibiting, governing or regulating any activity, use or thing in the ecosystem preservation zone.

[S.M. 2013, c. 38, s. 18.](#)

Public notice of proposed regulations

[12.5\(1\)](#) At least 90 days before a regulation is made under section 12.3 or 12.4, the minister must give public notice that a copy of the proposed regulation is available for review on the department's website

- (a) by publishing a notice in a newspaper having general circulation in the vicinity of the ecosystem preservation zone or the proposed ecosystem preservation zone; and
- (b) in any other manner he or she considers appropriate.

Submissions

[12.5\(2\)](#) Within 60 days after public notice is given under subsection (1), any person may make a written submission to the minister.

[S.M. 2013, c. 38, s. 18.](#)

PART III.2 ENFORCEMENT

Production of identification

12.6 An officer exercising a power under this Act must produce identification when requested to do so.

S.M. 2013, c. 38, s. 18.

Entry on private property

12.7 When discharging duties under this Act, an officer may enter and pass through or over private land without being liable for trespass.

S.M. 2013, c. 38, s. 18.

Officer may stop vehicle

12.8(1) For the purpose of enforcing this Act, an officer may signal or request a vehicle to stop, and the person having control of the vehicle must bring the vehicle to a stop and must not proceed until permitted to do so by the officer.

Inspection

12.8(2) An officer may inspect any plant or animal species found in or on a vehicle.

S.M. 2013, c. 38, s. 18.

Arrest without warrant

12.9 An officer who witnesses the commission of an offence under this Act may arrest the person committing the offence without a warrant and bring the person before a justice to be dealt with according to law.

S.M. 2013, c. 38, s. 18.

Seizure in execution of duties

12.10(1) An officer acting in the course of his or her duties who discovers an offence under this Act being committed may seize any thing that is used or involved in the commission of the offence or that is evidence of the offence, and may bring it before a justice, or report on it to a justice, to be dealt with according to law.

Warrant for search and seizure

12.10(2) A justice, upon being satisfied by information on oath that there are reasonable grounds to believe that

- (a) an offence under this Act is being or has been committed; and
- (b) there is to be found in any place, premises or vehicle any thing that will afford evidence of the offence;

may at any time issue a warrant authorizing an officer and any other person named in the warrant to enter and search the place, premises or vehicle for any such thing, and to seize it and as soon as practicable bring it before a justice, or report on it to a justice, to be dealt with according to law.

Application without notice

12.10(3) A warrant under this section may be issued upon application without notice.

Search and seizure without warrant

12.10(4) An officer may exercise the power of search and seizure without a warrant if the conditions for obtaining a warrant exist but it is not practicable in the circumstances to obtain one. In that case, the item seized must be brought before, or reported to, a justice, who must deal with it according to law.

S.M. 2013, c. 38, s. 18.

Exemption for officer

12.11(1) For the purpose of conducting investigations related to the enforcement of this Act, the minister may exempt an officer from the application of provisions of this Act.

Requirements

12.11(2) An exemption must be in writing and include restrictions respecting

- (a) the duration of the exemption; and
- (b) the acts or omissions, which would otherwise constitute offences, that the officer is allowed to commit while conducting investigations.

S.M. 2013, c. 38, s. 18.

No obstruction or false statements

12.12 A person must not obstruct an officer carrying out his or her duties under this Act or make a false or misleading statement to an officer.

S.M. 2013, c. 38, s. 18.

Prevention order

12.13(1) If an officer is of the opinion that any activity which is being, or which is about to be, carried out by a person would result, or would be likely to result, in a contravention of this Act, the officer may issue an order (a "prevention order") requiring the person to cease engaging in the activity set out in the order.

Service of prevention orders

12.13(2) A prevention order may be served on a person

- (a) by delivering a copy of the order to the person or an agent of the person; or
- (b) by sending a copy of the order by registered mail to the last known address of the person.

Duration of prevention order

12.13(3) A prevention order remains in effect until it is

- (a) withdrawn or discontinued by the officer who issued it; or
- (b) set aside or varied on an appeal under section 12.14.

Duty to comply with order

12.13(4) A person who is the subject of a prevention order must comply with the order.

S.M. 2013, c. 38, s. 18.

Appeal of prevention order

12.14(1) A person who is the subject of a prevention order may appeal the order to the minister.

How to appeal

12.14(2) The person appealing must send a written appeal notice to the minister within 14 days after the date of the order, or within any further period that the minister may allow. The notice must state the reasons for the appeal.

Hearing not required

12.14(3) The minister is not required to hold a hearing before deciding an appeal.

Decision

12.14(4) On an appeal, the minister may confirm, vary or set aside the prevention order.

S.M. 2013, c. 38, s. 18.

PART IV OFFENCES AND PENALTIES

Offence and penalty

13(1) A person who contravenes a provision of this Act is guilty of an offence and is liable on summary conviction,

- (a) in the case of an individual, to a fine of not more than \$50,000 or imprisonment for a term not exceeding six months, or both; and
- (b) in the case of a corporation, to a fine of not more than \$250,000.

Additional penalty

[13\(2\)](#) In addition to any penalty imposed under subsection (1), a court may require the convicted person to pay an additional fine that takes into account any monetary benefit, or estimated monetary benefit, that accrued to the convicted person as a result of the offence.

Liability of directors and officers

[13\(3\)](#) If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence and is liable on summary conviction to the penalties set out in clause (1)(a) or subsection (2), whether or not the corporation has been prosecuted or convicted.

[S.M. 1993, c. 3, s. 11; S.M. 2011, c. 35, s. 13; S.M. 2013, c. 38, s. 20.](#)

Forfeiture order re seized items

[13.1](#) In addition to any other penalty that may be imposed on a person convicted of an offence under this Act, a court may order that any item seized under this Act be forfeited to the Crown and disposed of as directed by the minister.

[S.M. 2013, c. 38, s. 21.](#)

Continuing offence

[14](#) Where a contravention of this Act continues for more than one day, the offender is guilty of a separate offence for each day that the contravention continues.

[S.M. 2013, c. 38, s. 22.](#)

Limitation period

[14.1](#) A prosecution for an offence under this Act may not be commenced later than one year after the day on which evidence sufficient to justify a prosecution for the offence came to the knowledge of an officer. A certificate of the officer as to the day on which the evidence came to his or her knowledge is evidence of that date.

[S.M. 2013, c. 38, s. 23.](#)

PART V MISCELLANEOUS

Reference in CCSM

[15](#) This Act may be referred to as Chapter E111 in the *Continuing Consolidation of the Statutes of Manitoba*.

Coming into force

[16](#) This Act comes into force on royal assent.