

## ***Wildlife Species Protection and Recovery Act, SA 2017 c W-?***

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

### **Part 1 - Interpretation**

**1(1)** In this Act,

- (a) “Alberta Species Trust” means the Alberta Species Trust as established in section 41(1);
- (b) “Conservation Committee” means the Alberta Species Conservation Committee established in section 7;
- (c) “critical habitat” means the habitat that is necessary for the recovery of a wildlife species on the Protected List and that is identified as the species’ critical habitat in a protection and recovery strategy;
- (d) “critical habitat statement” means a statement setting out the geographic areas of critical habitat identified in a protection and recovery strategy, including a legal description of the critical habitat, and the biological functions and attributes of the critical habitat;
- (e) “data deficient species” means a species in respect of which the Conservation Committee does not have sufficient information to designate;
- (f) “designation” means the species has been listed in one of the following categories:
  - (i) data deficient,
  - (ii) healthy population,
  - (iii) threatened species,
  - (iv) endangered species,
  - (v) extirpated species, or
  - (vi) extinct species;
- (g) “Designation List” means the list established in Schedule 1 setting out wildlife species designated by the Conservation Committee under Part 3;
- (h) “endangered species” means a wildlife species that is facing imminent extirpation or extinction;
- (i) “Director” means the Director of Species Protection and Recovery as established in section 43;
- (j) “extinct species” means a species that no longer exists anywhere in the world;

- (k) “extirpated species” means a wildlife species that no longer exists in the wild in Alberta, but exists elsewhere in the wild;
- (l) “guardian” means a person appointed by the Minister under Part 4 of this Act;
- (m) “interested person” means a person who has an interest in the protection or recovery of a wildlife species;
- (n) “individual organism” means an individual of a wildlife species, whether living or dead, at any developmental stage and includes larvae, embryos, eggs, sperm, seeds, pollen, spores and asexual propagules;
- (o) “healthy species” means a species whose population is relatively stable and self-sustaining;
- (p) “Minister” means the Minister designated under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (q) “Non-Protected List” means the list as established in Schedule 3;
- (r) “Protected List” means the list as established in Schedule 2;
- (s) “protection and recovery strategy” means a protection and recovery strategy referred to in section 32 for a species on the Protected List, or an amended protection and recovery strategy;
- (t) “public land” means land of the Crown in the right of Alberta;
- (u) “public registry” means the public registry established and administered pursuant to section 64;
- (v) “record” or “records” means record as defined in the *Freedom of Information and Protection of Privacy Act*;
- (w) “recovery team” means the recovery team established in Part 6 for a wildlife species;
- (x) “species at risk” means an extirpated, endangered or threatened species or a species of special concern;
- (y) “species group” means any one or more of fungi/lichens, mosses, vascular plants, arthropods, molluscs, fish, amphibians, reptiles, birds, or mammals;

- (z) “Species Policy Committee” means the Alberta Species Policy Committee as established under section 21;
- (aa) “species priority assessment list” means the species priority assessment list established and administered by the Conservation Committee in Part 3;
- (bb) “species protection report” means a report established and administered by the Species Policy Committee on the protection status of a species referred to in section 25;
- (cc) “species status report” means a report established and administered by the Conservation Committee on the status of a species and referred to in section 12;
- (dd) “threatened species” means a wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction;
- (ee) “Tribunal” means the Enforcement Tribunal as established in section 42;
- (ff) “wildlife species” means a wild species, subspecies, variety or geographically or genetically distinct population segment of animal, plant or other organism, other than a bacterium or virus, that
- (i) is native to Alberta, or
  - (ii) has extended its range into Alberta without human intervention and has been present in Alberta for at least 50 years.

**(2)** In this Act the term “privately owned land” has the meaning ascribed to it by the *Wildlife Act*.

## **Part 2 - General Principles**

**2(1)** In the event of a conflict or inconsistency between this Act and another enactment, this Act prevails to the extent of the conflict or inconsistency.

**(2)** Unless it is expressly declared by another enactment that it operates notwithstanding this Act, an enactment is inoperative to the extent that it authorizes or requires the doing of anything prohibited by this Act.

**3** The purposes of this Act are to prevent wildlife species from being extirpated, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and to prevent healthy populations from becoming endangered or threatened.

**4** In all aspects of the administration and implementation of this Act consideration shall be given to

- (a) the principle that, if there is a threat of serious or irreversible damage to a wildlife species, lack of full scientific certainty shall not be used as a reason for postponing measures to avoid or minimize the threat,
- (b) the importance of public participation in decision making concerning wildlife species, and
- (c) the commitment of Canada as a signatory nation to the United Nations *Convention on Biological Diversity* to enact legislation to protect and recover wildlife species at risk.

**5** This Act recognizes and affirms that the Crown owns and holds wildlife species in trust for the people of Alberta and hereby commits to exercise its authority over wildlife species in a manner that respects the inherent value in wildlife species.

**6(1)** This Act binds the Crown.

**(2)** For greater certainty, this Act applies to public land and privately owned land.

### **Part 3 - Assessment and Designation**

#### ***Species Conservation Committee***

**7** The Alberta Species Conservation Committee is hereby established.

**8** The Conservation Committee must carry out its functions on the basis of the best available information on the biological status of a wildlife species, including scientific knowledge, scholarship, and community knowledge.

**9(1)** The Conservation Committee shall be composed of 10 members appointed by the Minister in accordance with this section for a term of not more than 5 years, renewable in the discretion of the Minister.

**(2)** The Minister shall appoint 1 member to represent each species group for a total of 10 members.

**(3)** The majority of members of the Conservation Committee appointed under subsection (2) shall be tenured academic staff of a university, technical institute, public post-secondary institution, or public college established or continued under the *Post-secondary Learning Act*.

**(4)** A member of the Conservation Committee appointed under subsection (2) must have demonstrated and relevant expertise that is drawn from a scientific discipline such as conservation biology, population dynamics, taxonomy, systematics or genetics.

**(5)** The Minister shall publish the qualifications and expertise of each member of the Conservation Committee on the public registry.

**(6)** The members of the Conservation Committee shall select a chairperson from amongst themselves.

**10(1)** The Conservation Committee may establish subcommittees of specialists to assist in the preparation and review of status reports on wildlife species considered to be at risk, and it may establish other subcommittees to advise it or to exercise or perform any of its functions.

**(2)** A subcommittee established under subsection (1) shall be presided over by a member of the Conservation Committee.

**11(1)** The Conservation Committee shall report to the Minister annually on its work, including the designation of each wildlife species that the Conservation Committee has designated since its last annual report and the reasons for the designation.

**(2)** The Conservation Committee shall provide, upon request from the Species Policy Committee under section 25(2)(d), an assessment of whether a wildlife species will continue to persist in Alberta if the species is not listed on the Protected List.

**12** The Conservation Committee may make rules respecting

- (a) the holding of meetings and the general conduct of its activities,
- (b) the process for nominating a wildlife species for addition to the species priority assessment list under section 13(4), and
- (c) the process for petitioning the Conservation Committee to review the designation of a wildlife species under section 15(2).

### ***Species Priority Assessment List***

**13(1)** the Conservation Committee shall publish on the public registry a species priority assessment list every 6 months that lists up to 3 species from each species group.

**(2)** The wildlife species listed on the species priority assessment list will be selected from species nominated by members of the Conservation Committee or a nomination submitted to the Conservation Committee under subsection (4).

**(3)** The Conservation Committee shall review the species priority assessment list once every 6 months in order to

- (a) remove a wildlife species for whom a species status report has been completed under section 14, and

(b) add a wildlife species to replace a species for whom a species status report has been completed under section 14.

**(4)** An interested person may nominate a wildlife species for addition to the species priority assessment list in accordance with the process established by the Conservation Committee for such nominations.

**(5)** The Conservation Committee shall include a statement in the species priority assessment list disclosing the number of nominations for each wildlife species on the list, distinguishing between wildlife species nominated by members of the Conservation Committee or a nomination submitted under subsection (4).

### ***Species Status Reports***

**14(1)** The Conservation Committee shall prepare a species status report for a wildlife species listed in the species priority assessment list that designates a species as extinct, extirpated, endangered, threatened, healthy, or data deficient.

**(2)** A species status report shall include a description of

(a) habitat requirements for the species including a description of its geological and functional attributes,

(b) critical habitat for the species,

(c) current and historic range of the species,

(d) current and historic population of the species,

(e) species biology,

(f) past, current, and anticipated threats to the species and its habitat requirements, and

(g) any other information in relation to the species that the Conservation Committee considers relevant.

**(3)** The Conservation Committee shall make decisions on the status of a wildlife species under subsection (1) by a majority vote of its members and in the event of a tie the chairperson shall have the casting vote.

**(4)** The Conservation Committee shall submit a species status report to the Minister no later than 10 days after the report is completed.

**(5)** The Conservation Committee shall publish a notice on the public registry indicating the date upon which a species status report was submitted to the Minister under subsection (4).

**(6)** Upon receipt of a species status report under subsection (4) the Minister shall immediately publish the report on the public registry.

**15(1)** The Conservation Committee shall review the designation of a wildlife species at least once every 10 years or at any time the Conservation Committee forms the opinion that the biological status of the species has changed significantly.

**(2)** An interested person may petition the Conservation Committee to review the designation of a wildlife species at any time.

**(3)** Upon receipt of a petition under subsection (2), the Conservation Committee may review the designation of a wildlife species if the Conservation Committee forms the opinion that the biological status of the species has changed significantly.

**(4)** If the Conservation Committee elects not to review the designation of a wildlife species upon receipt of a petition under subsection (2), the Conservation Committee shall publish written reasons for the decision on the public registry and notify the interested person thereof.

**(5)** The Minister may direct the Conservation Committee to review the designation of a wildlife species.

**(6)** The Minister shall publish the direction under subsection (5) on the public registry with a statement explaining the reason for the direction.

**(7)** Upon receipt of a direction under subsection (5) from the Minister, the Conservation Committee shall review the designation of a wildlife species.

**(8)** Upon the completion of a review under this section, the Conservation Committee shall publish an updated species status report on the public registry.

**(9)** The Conservation Committee shall make decisions on the status of a wildlife species under subsection (8) by a majority vote of its members and in the event of a tie the chairperson shall have the casting vote.

**(10)** The Conservation Committee shall submit an updated species status report to the Minister no later than 10 days after the updated report is completed.

**(11)** The Conservation Committee shall publish a notice on the public registry indicating the date upon which an updated species status report was submitted to the Minister under subsection (10).

**(12)** Upon receipt of an updated species status report under subsection (10) the Minister shall immediately publish the report on the public registry.

**16** No later than 30 days after the Conservation Committee completes a species status report under section 14 or an updated species status report under section 15, the Minister shall amend the Designation List by adding, removing, or re-designating a wildlife species in accordance with the species status report or updated species status report, as applicable.

**17** Subject to Part 5, a wildlife species designated as endangered or threatened on the Designation List is deemed to be on the Protected List.

#### **Part 4 - Guardians**

**18** An interested person may apply to the Minister to be appointed as a guardian for a wildlife species designated as endangered or threatened under this Act.

**19(1)** The Minister shall appoint an interested person as a guardian for a wildlife species, where the Minister is satisfied the person will act in the best interests of the species, having regard to the following:

- (a) expertise drawn from a discipline such as conservation, biology, population dynamics, taxonomy, systematics or genetics or from community knowledge on the conservation of wildlife species,
- (b) the demonstrated ability of the proposed guardian to effectively exercise its authority as a guardian under this Act,
- (c) any matter prescribed by the regulations, and
- (d) any other matter the the Conservation Committee considers relevant.

**(2)** In considering the appointment of a guardian, the Minister must consult with and obtain the opinion of the Conservation Committee as to whether the proposed guardian will act in the best interests of the wildlife species.

**(3)** In assessing whether a proposed guardian will act in the best interests of wildlife species, the the Conservation Committee may consider evidence of any matter, including a potential conflict of interest, that might create a substantial risk that the proposed guardian would not act in the best interests of the species.

**(4)** Where the Minister is not satisfied under subsection (1) that a person will act in the best interests of the species the Minister shall provide written reasons.

**20(1)** A guardian shall exercise its authority under this Act diligently, in good faith, and in a manner that respects the best interests of the wildlife species.

**(2)** Where a wildlife species has more than one guardian, the guardians



- (a) may each exercise the powers, responsibilities and entitlements of a guardian, unless the the Conservation Committee orders otherwise,
- (b) shall provide information to any other guardian relating to the exercise of powers, responsibilities and entitlements of guardianship, at the request of that other guardian,
- (c) shall use their best efforts to co-operate with one another in exercising their powers, responsibilities and entitlements of guardianship, and
- (d) may enter into an agreement with respect to the allocation of powers, responsibilities and entitlements of guardianship among themselves.

## **Part 5 - Protected Listing**

### ***Alberta Species Policy Committee***

**21(1)** The Alberta Species Policy Committee is hereby established.

**(2)** The Species Policy Committee shall be composed of 5 members, consisting of

- (a) 4 members appointed by the Minister, and
- (b) the Minister or a delegate of the Minister.

**(3)** The members of the Species Policy Committee shall select a chairperson from amongst themselves.

**(4)** The Species Policy Committee may make rules respecting

- (a) the holding of meetings and the general conduct of its activities, and
- (b) the process for petitioning the Species Policy Committee under section 24.

### ***Species Protection Reports***

**22(1)** The Species Policy Committee shall conduct an assessment on whether a wildlife species should be moved from the Protected List to the Non-Protected List upon

- (a) receipt of a petition under section 24, or
- (b) direction from the Minister.

**(2)** Where the Species Policy Committee receives a petition or a direction under subsection (1), the Species Policy Committee shall give at least 30 days notice of the petition or direction it has before it.

**(3)** The Species Policy Committee shall publish a notice issued under subsection (2) on the public registry.

**23** For every wildlife species on the Non-Protected List, the Species Policy Committee shall conduct an assessment at least once every 5 years to determine whether the wildlife species should be moved to the Protected List.

**24** A person may petition the Species Policy Committee to conduct an assessment on whether a wildlife species should be moved from the Protected List to the Non-Protected List.

**25(1)** An assessment by the Species Policy Committee under sections 22 or 23 shall be set out in a species protection report explaining the assessment by the Species Policy Committee and setting out its recommendation on whether a wildlife species should be moved from or added to the Protected List.

**(2)** The species protection report made under subsection (1) shall include

- (a) a description of all comments, representations, and submissions received under section 26,
- (b) a summary of all consultations conducted under section 26,
- (c) a statement setting out findings of fact and the reasons upon which the Species Policy Committee made its recommendation on whether a wildlife species should be moved from or added to the Protected List, and
- (d) an assessment by the Conservation Committee of whether the wildlife species will continue to persist in Alberta if the species is not on the Protected List.

**26** As part of an assessment conducted under section 22 or 23, the Species Policy Committee shall

- (a) give an interested person a reasonable opportunity of submitting relevant evidence and making representations by way of argument,
- (b) inform a guardian of the facts in its possession or the allegations made to it contrary to the interests of the wildlife species in sufficient detail
  - (i) to permit the guardian to understand the facts or allegations, and
  - (ii) to afford the guardian a reasonable opportunity to furnish relevant evidence to contradict or explain the facts or allegations,

- (c) afford the guardian an opportunity of cross-examination in the presence of a person authorized to hear or take evidence when the Species Policy Committee intends to make a decision affecting a species designated as an endangered or threatened,
- (d) consult with the Conservation Committee, and
- (e) consult with a recovery team established for the wildlife species under section 31.

**27(1)** The Species Policy Committee shall publish a notice of each species protection report it proposes under section 25 on the public registry.

**(2)** The notice published under subsection (1) shall include the proposed species protection report.

### ***Protected List and Non-Protected List***

**28** Upon the recommendation of the Species Policy Committee contained in an assessment set out in a species protection report completed under section 25, the Minister shall add a wildlife species to the Protected List.

**29** Upon the recommendation of the Species Policy Committee contained in an assessment set out in a species protection report and on address of the Legislative Assembly of Alberta, the Minister may move a wildlife species from the Protected List to the Non-Protected List.

## **Part 6 - Recovery Planning**

**30** This Part does not apply to a wildlife species on the Non-Protected List.

### ***Recovery Teams***

**31(1)** Within 90 days after a wildlife species is designated as an endangered species or a threatened species, the Minister shall establish a recovery team for the species.

**(2)** Subject to subsections (3) and (4), the Minister shall appoint 10 members to a recovery team for a wildlife species.

**(3)** Where a guardian has been appointed for a wildlife species under Part 4, the guardian may nominate up to 3 members for appointment to the recovery team for the wildlife species and the Minister shall appoint to the recovery team those persons nominated by the guardian.

**(4)** At least 1 member appointed by the Minister to a recovery team must be a member of the Conservation Committee, and that member shall serve as the non-voting Chair of the recovery team.

**(5)** A member of a recovery team for a wildlife species must have demonstrated expertise in a discipline such as conservation biology, population dynamics, taxonomy, systematics or genetics, related to the wildlife species.

### ***Protection and Recovery Strategies***

**32** The recovery team for a species appointed under section 31 shall propose a strategy for the protection and recovery of the species in accordance with section 33 and the status assessment prepared by the Conservation Committee.

**33** A protection and recovery strategy proposed under section 32 must be based on the best available information on the biological status of a species, including scientific knowledge, scholarship, and community knowledge, and without limited the generality of the foregoing include

- (a) a description of the species and its needs that is consistent with the status assessment prepared by the Conservation Committee,
- (b) an identification of the threats to the survival of the species and threats to its habitat that is consistent with the status report prepared by the Committee and a description of the broad strategy to be taken to address those threats,
- (c) an identification of the species' critical habitat consistent with information provided by Conservation Committee, including
  - (i) a legal description and geographic description of the areas of critical habitat, and
  - (ii) the biological functions and attributes of the critical habitat,
- (d) where available information on critical habitat is inadequate, a schedule of studies to identify critical habitat and a timeframe for the conduct of these studies,
- (e) an identification of activities that are likely to result in the harm or destruction of any part of a species' critical habitat,
- (f) a statement of the measures that are proposed to be taken to protect the species' critical habitat,
- (g) an identification of any portions of the species' critical habitat that have not been protected,
- (h) a statement of the population and distribution objectives that will assist the recovery and survival of the species, and a general description of the research and management activities needed to meet those objectives,
- (i) a statement about whether additional information is required about the species,

- (j) a statement of the measures that are to be taken to implement the recovery strategy, including those that address the threats to the species and those that help to achieve the population and distribution objectives, as well as an indication as to when these measures are to take place,
- (k) the methods to be used to monitor the recovery of the species and its long-term viability, and
- (l) any other matters that are prescribed by the regulations.

**34(1)** A recovery team shall publish notice of each protection and recovery strategy it proposes under section 32 on the public registry.

**(2)** The notice published under subsection (1) shall include

- (a) the proposed protection and recovery strategy,
- (b) a summary of the proposed protection and recovery strategy,
- (c) a critical habitat statement,
- (d) a discussion of all alternatives to the proposed protection and recovery strategy that were considered by the recovery team and the reasons for not proposing the alternatives considered, and
- (e) a reference to any significant unpublished study, report or other written materials on which the recovery team relies in proposing the protection and recovery strategy.

**(3)** Upon publication of a notice under subsection (1), a recovery team shall invite, and shall give a reasonable opportunity to, interested persons to make written representations with respect to the proposed protection and recovery strategy within a period of 90 days after the publication.

**(4)** If, following publication of the notice under subsection (1) and consideration of the submissions under subsection (3), a recovery team proposes material changes to the proposed protection and recovery strategy, the recovery team shall publish notice of the proposed changes on the public registry.

**(5)** A notice published under subsection (4) must include

- (a) the proposed protection and recovery strategy with the changes incorporated,
- (b) a concise statement of the purpose of the changes, and
- (c) written reasons for the changes.

**(6)** Upon publication of a notice of changes under subsection (4), a recovery team shall invite, and shall give a reasonable opportunity to, interested persons to make written representations with respect to the changes within a period of 30 days after the publication.

**(7)** Within 30 days after the expiry of the period referred to in subsection (6), a recovery team must consider any comments received, make any changes to the proposed protection and recovery strategy that it considers appropriate and publish the final the protection and recovery strategy and critical habitat statement on the public registry.

**35(1)** A recovery team may amend a protection and recovery strategy.

**(2)** A recovery team shall follow the provisions of this Part 6 in amending a protection and recovery strategy under subsection (1).

## **Part 7 - Protection of Species and their Critical Habitat**

**36** This Part does not apply to a wildlife species on the Non-Protected List.

**37(1)** No person shall kill, harm, harass or take an individual organism that is a member of a wildlife species designated as an extirpated species, an endangered species or a threatened species.

**(2)** No person shall possess, buy, sell or trade

(a) an individual organism that is a member of a wildlife species designated as an extirpated species, an endangered species or a threatened species, or

(b) a part or a derivative of an individual organism that is a member of a wildlife species designated as an extirpated species, an endangered species or a threatened species.

**(3)** For the purposes of subsection (2), any animal, plant or thing that is represented to be an individual organism, or a part or derivative of an individual organism, of a wildlife species that is designated as an extirpated species, an endangered species or a threatened species shall be deemed, in the absence of evidence to the contrary, to be such an individual organism or a part or derivative of such an individual organism.

**(4)** No person shall attempt to do anything set out under subsections (1) or (2).

**(5)** The prohibition regarding possession in subsection (2) does not apply to the Crown.

**38** No person shall harm or destroy any part, attribute, or function of the critical habitat set out in a critical habitat statement for a wildlife species designated as an endangered species or a threatened species.

**39** No person shall exercise a power under an enactment that authorizes an activity which

- (a) may result in the harm or destruction of any part of the critical habitat set out in a critical habitat statement for a wildlife species designated as an endangered species or a threatened species, or
- (b) may jeopardize the survival or recovery of an endangered species or a threatened species.

**40** Sections 37, 38 and 39 do not apply to a person engaging in activity authorized by a permit issued under sections 57 or 58 and who is in compliance with any terms or conditions of the permit.

### **Part 8 - Enforcement and Liability**

**41(1)** There is hereby established the Alberta Species Trust, which shall be used to provide or pay for

- (a) establishing and administering species protection or recovery programs and initiatives,
- (b) education programs related to species protection or recovery,
- (c) research and other scientific activities related to species protection or recovery,
- (d) the promotion and development of activities and economic instruments to encourage species protection or recovery,
- (e) assessment and designation of wildlife species by the Conservation Committee, or
- (f) any other matter or activity consistent with species protection or recovery.

**(2)** The Alberta Species Trust must be administered by the Minister in accordance with and consistent with the protection and recovery of wildlife species under this Act.

**(3)** The Minister shall publish a report on the public registry at least once per calendar year which provides for an accounting of funds received and how funds were disbursed from the Alberta Species Trust during the year.

#### ***Enforcement Tribunal***

**42(1)** There is hereby established an Enforcement Tribunal.

**(2)** The Tribunal shall be composed of not fewer than 5 persons who shall be appointed by the Minister.

**(3)** The Minister shall designate a chair of the Tribunal from among the members of the Tribunal.

**(4)** In the case of the absence or inability to act of the chair or of there being a vacancy in the office of the chair, a vice-chair shall act as and have all the powers of the chair and, in the absence of the chair and vice-chair or vice-chairs from any meeting of the Tribunal, the members of the Tribunal present at the meeting shall appoint an acting chair who shall act as and have all the powers of the chair during the meeting.

**(5)** Three members of the Tribunal constitute a quorum.

**(6)** Only members who are present throughout the hearing of a matter shall participate in making the Tribunal's decision about it.

**(7)** No member of the Tribunal, or employee shall be required to testify in any proceeding with regard to information obtained by her in the discharge of duties as a member of the Tribunal or employee.

### ***Enforcement Orders***

**43(1)** The Minister shall appoint a Director of Species Protection and Recovery.

**(2)** The position of Director shall not sit vacant for more than 60 consecutive days.

**44** Where in the Director's opinion, either on the Director's own volition or upon an investigation requested under section 54, a person has contravened this Act, the Director may

- (a) issue an enforcement order,
- (b) order the stopping or shutting down of an activity or thing either permanently or for a specific period of time, or
- (c) take any other action the Director deems necessary.

**45** An enforcement order issued under section 44(a) shall set out

- (a) the details of the contravention of this Act,
- (b) the penalty for the contravention in accordance with sections 46 or 47 as applicable, and
- (c) the procedure for appealing the decision made by the Director under section 44.

**46 (1)** An enforcement order issued to an individual under section 44(a) may direct an individual to perform any one or more of the following:

- (a) surrender any equipment or tool used to contravene the Act;



- (b) make a payment into the Alberta Species Trust;
- (c) disgorge any profit related to the contravention of this Act;
- (d) conduct community service with a group who was affected by the contravention;
- (e) publish the details of the contravention;
- (f) any other act that the Director sees fit.

**(2)** Where issuing an enforcement order to an individual under section 44(a), the Director shall take into account

- (a) the financial means of the individual to pay into the Alberta Species Trust,
- (b) the burden confiscating the equipment or tool may have on the individual,
- (c) the extent of the damage caused by the contravention,
- (d) the cost of enforcing the penalty on the individual, and
- (e) any unique factors unique to the individual including a history of past contraventions under this Act.

**47(1)** An enforcement order issued to a person other than an individual under section 44(a) shall direct the person to publish the details of their contravention for a period of time determined by the Director in

- (a) one or more major Canadian newspapers or media websites,
- (b) a media release provided to news agencies determined by the Director,
- (c) a press conference,
- (d) a billboard advertisement, or
- (e) a notice that is clearly visible to consumers at the point of purchase.

**(2)** An enforcement order issued to a person other than an individual under section 44(a) may direct the person to perform any one or more of the following:

- (a) comply with an audit;
- (b) disgorge any profit made by contravening this Act;
- (c) take action or refrain from taking action in order avoid future contraventions of this Act;

(d) make a payment into the Alberta Species Trust;

(e) reclaim damaged critical habitat to the satisfaction of a guardian.

**(3)** Where issuing an enforcement order to a person other than an individual under section 44(a), the Director shall take into account

(a) the need to facilitate and enhance awareness of contraventions of this Act,

(b) the role of penalties as a deterrence against subsequent contraventions of this Act,

(c) the value of educating public about the adverse effects of contraventions of this Act on endangered and threatened species and their habitat,

(d) the financial resources of the person,

(e) the effect imposing an order will have on any employees of the person,

(f) the extent of the damage caused by the contravention,

(g) whether without the imposition of an order the contravention is likely to continue or re-occur, and

(h) any unique factors unique to the person including a history of past contraventions under this Act.

**48** A person to whom an order is issued under section 44 may, by written notice served on the Director and the Tribunal within 15 days after service on the person of a copy of the order, require a hearing by the Tribunal.

**49** The tribunal shall extend the time in which a person may give a notice under section 48 requiring a hearing on an order if, in the Tribunal's opinion, it is just to do so because the service of the order on the person did not give the person adequate notice of the order.

**50** The notice served under section 48 shall include a statement setting out

(a) the portions of the order in respect of which the hearing will consider, and

(b) the grounds on which the person intends to rely at the hearing to appeal the portions of the order identified in clause (a).

**51** Except with the leave of the Tribunal, at a hearing by the Tribunal a person is not entitled to appeal a portion of the order, or to rely on a ground, that is not stated in the notice served under section 48.

**52** The parties to a hearing before the Tribunal under this Part consist of the person who serves the notice under section 48, the Director, and any other person specified by the Tribunal.

**53** The Tribunal may confirm, alter or revoke the order or portion of an order that is the subject

matter of the hearing.

**54** An interested person may petition the Director to investigate whether a contravention of this Act has occurred.

**55** Within 70 days of receiving a petition under section 54 the Director shall

- (a) acknowledge, in writing, the receipt of the petition,
- (b) provide the interested person with the result of the Director's investigation and identify action taken or to be taken by the Director under section 44, and
- (c) where the investigation does not result in the issuance of an order under section 44, the Director shall provide the interested person with written reasons for not issuing an enforcement order.

**56(1)** A guardian has a right of action for damages and equitable relief against a person who contravenes section 37, 38 or 39.

**(2)** For greater certainty, a guardian has a right of action for damages and equitable relief against the Crown for a contravention of section 39.

## **Part 9 - Permits**

**57(1)** Subject to subsection (2), the Minister may issue a permit to a person to kill, harm, harass or take an individual organism that is a member of a wildlife species that is listed on the Protected List, or to take or possess such an individual organism or any part or derivative of such an individual organism, if

- (a) the person or predecessor in title legally possessed the individual organism, or the part or derivative of the individual organism, before its wildlife species was listed on the Protected List,
- (b) the person is a member of a group that traditionally uses an individual organism, or a part or derivative of an individual organism, of the wildlife species for religious or ceremonial purposes, or
- (c) the individual organism, or the part or derivative of the individual organism, is required for scientific research, education or species recovery.

**(2)** The Minister shall not issue a permit under subsection (1) unless, in the opinion of the Minister, there is no reasonable alternative and killing, harming, harassing or taking the individual organism or possessing the individual organism, or the part or derivative of the individual organism, will not put the wildlife species at further risk.

**(3)** In forming an opinion under subsection (2) the Minister shall

- (a) give an interested person and a guardian for the wildlife species a reasonable opportunity of submitting relevant evidence and making representations by way of argument, and
- (b) consult with the Conservation Committee and the recovery team for the wildlife species.

**58(1)** Subject to subsection (2), the Minister may issue a permit to a person to engage in an activity that would harm or destroy any part of critical habitat for a wildlife species that is listed on the Protected List, if

- (a) the activity is scientific research relating to the conservation of the wildlife species and is conducted by qualified persons, or
- (b) the activity will benefit the wildlife species or is required to enhance its chance of survival in the wild.

**(2)** The Minister shall not issue a permit for an activity referred to in subsection (1) unless the Minister is satisfied that

- (a) all reasonable alternatives to the activity that would reduce the impact on the wildlife species have been considered and the best solution has been adopted, and
- (b) all reasonable measures will be taken to minimize the impact of the activity on the wildlife species and its habitat.

**(3)** In forming an opinion on reasonable alternatives or measures under subsection (2) the Minister shall

- (a) give an interested person and a guardian for the wildlife species a reasonable opportunity of submitting relevant evidence and making representations by way of argument, and
- (b) consult with the Conservation Committee and the recovery team for the wildlife species.

**59** A permit issued under section 57 or 58 may contain any terms or conditions that the Minister considers necessary to further the purposes of this Act.

**60** The Minister shall publish without delay in the public registry all permits issued under sections 57 or 58 and all records in relation thereto, including records produced under sections 57(3) or 58(3).

## **Part 10 - Appeals**

**61** A decision made by the Conservation Committee is final and binding subject to an appeal under section 62.

**62(1)** An appeal of a decision made by the Conservation Committee lies to the Court of Appeal on an important question of law with permission of the Court.

**(2)** An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to the Conservation Committee, the Minister, and any guardians appointed for the wildlife species in question.

**(3)** On hearing the application for permission to appeal and the representations of those persons who are, in the opinion of the Court, affected by the application, the Court may grant permission to appeal if the Court is of the opinion that the appeal involves an important question of law and is likely to succeed.

**(4)** If the Court grants permission to appeal, the Court may

- (a) specify the question of law to be appealed,
- (b) specify the parties to the appeal, and
- (c) make any order as to the costs of the application that the Court considers appropriate.

## **Part 11 - General**

**64** The Minister shall establish an online public registry for the purpose of facilitating access to records, and without limiting the generality of the foregoing the public registry shall include the following:

- (a) the qualifications and expertise of each member of the Conservation Committee;
- (b) the species priority assessment list;
- (c) a notice published by the Conservation Committee indicating the date upon which a species status report is submitted to the Minister;
- (d) a species status report;
- (e) reasons published by the Conservation Committee for electing not to review the designation of a wildlife species;
- (f) a direction of the Minister to the Conservation Committee to review the designation of a wildlife species;
- (g) a petition to the Species Policy Committee to conduct an assessment on whether a wildlife species should be removed from the Protected List;

- (h) a proposed and final copy of a species protection report;
- (i) a notice published by the recovery team on a protection and recovery strategy;
- (j) a notice of any material changes to a protection and recovery strategy;
- (k) a proposed and final copy of a protection and recovery strategy;
- (l) a permit issued under Part 9 and all records in relation thereto;
- (m) records in relation to the administration of funds held in the Alberta Species Trust;
- (n) orders issued under Part 9 and all records in relation thereto;
- (o) reasons issued by the Director under Part 9 for not conducting an investigation into an alleged contravention of this Act, and all records in relation thereto;
- (p) the qualifications and expertise of each guardian appointed under this Act;
- (q) the Conservation Committee's criteria for the classification of wildlife species;
- (r) codes of practice, standards or guidelines established under this Act.

**65** The Minister may make regulations generally for the purposes of implementing this Act.