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BLAKES' CANADIAN LAW OF ENDANGERED SPECIES

Walton

Release No. 4, December 2023

This unique supplemented looseleaf service, canvasses in detail federal, provincial and territorial statutes and regulations governing the protection of species at risk of extinction in Canada. The Work begins with a discussion of the structure of endangered species law, with specific comments on the federal division of powers, and the common law principles applicable to regulatory law. The remaining chapters review the key federal laws, with particular emphasis on the *Species at Risk Act*, as well as the legislation of each province and territory regulating endangered species, including a detailed analysis of the provisions of each section and applicable case law. In addition, the Work cites U.S. cases which may be of assistance in interpreting the Canadian legislation and includes a detailed glossary, table of contents and analytical index.

This release features updates to the commentary and legislation in Chapters 3 and 12.

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Highlights:

Federal—The Species at Risk Act—Legislation—Stewardship—3:53.
[SARA § 11 Conservation agreements--species at risk]—Commentary—In 2022, ECCC undertook protection assessments of the critical habitat and individuals of boreal caribou in Ontario and Québec, to determine if provincial laws provide effective protection on non-federal lands, as required under s. 61. In 2023, the Minister formed the opinion that almost all of the boreal caribou critical habitat located on non-federal lands in Québec, and that some portions of boreal caribou critical habitat on non-federal lands in Ontario, was not effectively protected and as required under s. 61(4), recommended the federal Cabinet make an order to protect all unprotected portions of boreal caribou critical habitat located on non-federal lands in Québec and Ontario. On July 21, 2023, the government issued a statement that the federal cabinet had declined to the making of the order. The cabinet cited a number of reasons for its decision, including the Conservation Agreement entered into with Ontario in 2022, and continued discussions with Québec concerning an agreement for the management, protection and recovery of the species.

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Québec—Overview—An Act respecting threatened or vulnerable species—12:4. Species and Habitat Protection—Enforcement—Enforcement of the TVSA is also carried out by inspectors and penal officers designated under the Act respecting certain measures enabling the enforcement of environmental and dam safety legislation (the “*Environmental Enforcement Act*”). This Act establishes authority for inspections and investigations; processes for applying monetary administrative penalties; the scope of court orders; cost recovery by the government; and provides the authority to the Minister to refuse, amend or cancel authorisations under prescribed circumstances which include, inter alia having been found guilty of offences under any of the acts administered by the Minister. The Environmental Enforcement Act also provides that fines for offences under the TVSA are doubled for a second offence and tripled for a third.

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