

Index

ABORIGINAL RIGHTS

See also Indians

Generally, § 1:30 to § 1:34

Suitability of jail as sentence,
§ 7:23

ABSOLUTE LIABILITY OFFENCES

Generally, § 2:43

ABUSE OF PROCESS

Generally, § 4:1 to § 4:16, § 4:108

Administrative/alternative remedies, existence of, § 4:8

Civil proceedings as pursuit of prosecution, § 4:12

Costs against Crown, § 4:36

Crown discretion, judicial review of, § 4:2

Crown undertakings, repudiation of, § 4:7

Deception by investigators, § 4:10

Double jeopardy, § 4:15

Entrapment, § 4:11

Individuals/companies, singling out for prosecution, § 4:9

Prosecution threats, § 4:13

Reasonable reliance on regulator, § 4:6

Selective prosecution, § 4:9

Stay, remedy of, § 4:4

Unreasonable delay, § 4:39

Withdrawal of charges, § 4:16

ACCESS TO ENVIRONMENTAL EVALUATIONS

Generally, § 3:69, § 3:73 to § 3:79

ACQUIRED RIGHTS

Generally, § 2:39; § 5:46

ACTS OF GOD

Generally, § 5:32

ADMINISTRATIVE PENALTIES

Generally, § 5:2, § 7:62

ADVERSE EFFECT

Generally, § 2:8 to § 2:14

Character of neighbourhood, § 2:18

Interference with normal conduct of business, § 2:20

Loss of enjoyment of property, § 2:17

Material discomfort, § 2:16

AIR, DEFINED

Generally, § 2:7

APPEALS

Generally, § 4:128

On sentencing, § 7:119

APPROVAL REQUIREMENTS

Generally, § 2:35 to § 2:43

Absolute liability offences, as, § 2:43

Application, § 2:40

Burden of proof, § 2:50, § 4:111

Certificate, retroactivity of, § 2:40

Constitutionality, § 2:36

Construct, § 2:37

Due diligence, § 5:43

Extend, § 2:37

Failure of government to act expeditiously, § 2:43

Fault for approvals offences, required level of, § 2:43

Liability of contractors/design consultants, § 2:47

Liability of directors/officers, § 2:46

APPROVAL REQUIREMENTS

—Cont'd

- Point at which required, § 2:39
- Responsibility to meet, § 2:43
- Scope of approvals, § 2:45
- Site specificity of approvals, § 2:45
- Statutory provisions, § 2:35, § 2:40
- When certificate required, § 2:40, § 2:44

ATTEMPTS

- Generally, § 4:68

BAD CHARACTER

- Generally, § 4:108

BIAS

- Generally, § 4:127

BURDEN OF PROOF

- Generally, § 4:73 to § 4:76
- Aggravating factors, § 7:35
- Constitutionality, § 4:75
- Directors' liability, § 6:11

BUSINESS RECORDS

- Generally, § 4:97

BY-LAWS

- See Municipal environmental by-laws

CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

- Generally, § 2:101, § 2:130, § 3:48, § 4:96, 6:20, § 7:80, § 7:87

CERTIFICATE OF APPROVAL

- See Approval requirements

CIRCUMSTANTIAL EVIDENCE

- Generally, § 4:78

COLLATERAL CHALLENGES TO ORDERS

- Generally, § 2:84

COMMUNITY SERVICE

- Generally, § 7:90

COMPELLABILITY OF

COUNSEL AS WITNESS

- Generally, § 4:42

COMPLIANCE AND

ENFORCEMENT POLICIES

- Compliance and Enforcement Policy for the Canadian Environmental Protection Act, 1999, § 7:80
- Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act, § 7:83
- Compliance Policy: Applying Abatement and Enforcement Tools, § 7:84
- Compliance Policy P-211 for the Nuclear Safety and Control Act, § 7:82
- Policy and Guideline on Access to Environmental Evaluations (Guideline H-9), § 3:73 to § 3:79

COMPLIANCE WITH ORDER, IMMUNITY AND

- Generally, § 2:88

CONFLICT OF INTEREST

- Crown as defendant, § 1:40
- Crown counsel as witnesses, § 4:42
- Employee interviews, § 3:28
- Lawyers as witnesses, § 3:28
- Prosecution of Crown, § 1:40
- Small law firms, § 3:28

CONSTITUTIONAL ISSUES

- See also Federal jurisdiction, Provincial jurisdiction
- Damages for constitutional breach, § 4:37
- Jurisdiction
 - federal core jurisdiction, § 1:11
 - fishing, § 1:19
 - general advantage of Canada, § 1:5

CONSTITUTIONAL ISSUES

—Cont'd

Jurisdiction—Cont'd

- interjurisdictional immunity,
§ 1:9, § 1:10
- interprovincial pipelines, § 1:16
- interprovincial trucking, § 1:13
- interprovincial waste disposal,
§ 1:14
- migratory birds, § 1:18
- non-renewable resources, § 1:23
- nuclear energy, § 1:22
- paramountcy, § 1:24
- PCBs and other toxics, § 1:15
- pipelines, § 1:16
- railways, § 1:10, § 1:20
- ships, § 1:21
- spills into interprovincial waters,
§ 1:17

Public property, § 1:3

Validity

- burden of proof, § 4:75
- corporate liability for employee
actions, § 6:24
- directors' liability provisions,
§ 6:10
- discharge offence, § 2:22
- environmental laws, generally,
§ 2:115
- notification of discharge, § 3:22
- offence of failing to give notice
of discharge, § 2:25
- privacy expectation, § 3:50
- requirement to furnish informa-
tion, § 2:93
- waste, § 2:52

CONSTITUTIONAL VALIDITY OF STATUTORY PROVISIONS

- Absolute liability offences, § 7:63
- Approval requirements, § 2:36
- Corporate liability for employees'
actions, § 6:24
- Directors' and officers' liability,
§ 6:10

CONSTITUTIONAL VALIDITY OF STATUTORY PROVISIONS—Cont'd

- Discharge offences, § 2:22
- Failing to give notice, § 2:25
- Fisheries Act, § 2:115
- Forfeiture orders, § 7:94
- Waste provisions, § 2:61

CONSULTANTS

- Generally, § 5:20, § 5:37, § 6:15

CONTAMINANT

- Generally, § 2:5

CONTEMPT OF COURT

- Generally, § 7:116

CONTINUING DISCHARGES

- Generally, § 2:4, § 2:6, § 2:21,
§ 2:134

CONTRACTING OUT

- Generally, § 5:34 to § 5:40

CONTROL, MANAGEMENT

- Cause, permit, § 2:6
- Corporate veil, § 6:34
- Criminal negligence, § 6:3
- Due diligence, § 5:30
- Waste generators, § 2:63
- Waste operators, § 2:69

CORPORATE LIABILITY

- Generally, § 6:13
- Amalgamated corporations, § 6:36
- Environmental offences
 - common law criminal contempt,
§ 6:6
 - common nuisance, § 6:2
 - criminal negligence, § 6:3
 - mischief, § 6:5
- Liability of agents, § 6:26
- Liability of corporation
 - generally, § 6:16
 - constitutionality, § 6:24
 - directing mind, § 6:17 to § 6:19
 - due diligence, § 6:17 to § 6:19

CORPORATE LIABILITY

—Cont'd

Liability of management, § 6:13

Liability of officers/directors

generally, § 6:7 to § 6:12, § 6:15

authorizing, permitting, acquiescing in unlawful conduct,
§ 6:8

burden of proof, § 6:11

constitutionality, § 6:10

duty of reasonable care, § 6:7

identifying officers, directors,
§ 6:9

responsible share doctrine, § 6:12

standard of care, § 6:12

statutory provisions, § 6:7 to
§ 6:12

Liability of shareholders, § 6:14

Lifting corporate veil, § 6:34

Service of offence notices/
summonses, § 6:32

CORPORATE VEIL

Generally, § 6:34

CORPORATIONS

Admissions, § 4:70

Compellability of officers, § 3:14

Indians, as, § 1:26

Liability

see Corporate liability

Self-incrimination, § 3:23

Statements against interest, § 4:70,
§ 4:79

CRIMINAL CHARGES

Generally, § 6:1

CROWN IMMUNITY

Generally, § 1:36, § 2:90

Case law, § 7:10, § 7:11

Conflict of interest, § 1:40

Crown agents/servants, § 1:37,
§ 1:38, § 2:6, § 7:11

Intergovernmental charges, § 1:38

Role of Crown prosecutor, § 1:40

Style of cause, § 1:39

CROWN PRIVILEGE

Generally, § 4:28

CROWN SCREENING

Federal criteria

Canadian Environmental Protec-
tion Act, § 7:80

Federal Prosecution Service
Deskbook, § 7:79

Fisheries Act, § 7:83

Nuclear Safety and Control Act,
§ 7:82

Provincial criteria

Ontario Ministry of the Environ-
ment, § 7:84

CURTILAGE RULE

Generally, § 3:61

DEFENCES

See also Crown immunity

Complicity of regulator in breach,
§ 5:50

Conformity with Aboriginal treaty/
rights, § 5:49

Conformity with orders, permits
and approvals, § 5:47

Conformity with regulatory stan-
dards, § 5:48

Economics, § 2:86

Mistake of fact, § 5:44

Mistake of law, § 5:45

Necessity and impossibility, § 5:51

Officially induced error, § 5:46

DELETERIOUS SUBSTANCE

Generally, § 2:111

DEMAND FOR INFORMATION

Random, § 3:21

Routine, § 3:20

DE MINIMIS NON CURAT LEX (THE COURT DOES NOT CONCERN ITSELF WITH TRIVIALITIES)

Generally, § 2:23, § 2:116

DETENTION

Generally, § 3:13, § 3:45

DIRECTORS' LIABILITY

See Corporate liability

DISCHARGE

Generally, § 2:4, § 2:21

DISCLOSURE BY CROWN

See also Martin report

Burden of proving relevance, § 4:23

Case law, § 4:24, § 4:25

Confidential informant's statement,
§ 4:27, § 4:32

Costs against Crown, § 4:36

Electronic disclosure, § 4:22

Expert witness reference materials,
§ 4:24, § 4:90, § 4:91

Information in Crown's possession,
§ 4:24, § 4:28

Laboratory's standard operating
procedure, § 4:24

Late disclosure, § 4:34, § 4:38

Leading case, § 4:21

Medical information, § 4:26, § 4:30

Photocopies, § 4:26

Professional duties, § 4:20

Remedies, § 4:33 to § 4:38

Third party production, § 4:23,
§ 4:24

**DISMISSAL FOR WANT OF
PROSECUTION**

Generally, § 4:125

DIVERSION

Alternative measures agreements
under Fisheries Act, § 7:81

Canadian Environmental Protection
Act, when to prosecute under,
§ 7:80

Crown discretion on proceeding on
plea of guilty, § 7:85

Enforcement policy under Fisheries
Act, § 7:83

Enforcement policy under Nuclear
Safety and Control Act, § 7:82

DIVERSION—Cont'd

Federal criteria for determining
when to prosecute, § 7:79

Provincial criteria for determining
when to prosecute, § 7:84

DOCUMENTS

Generally, § 4:97

DOUBLE JEOPARDY

Generally, § 7:38

DUE DILIGENCE

Generally, § 5:1

Acts of God, § 5:32

Affirmative obligation to
investigate, § 5:28

Alternatives

best available technology, § 5:16

communications with regulatory
authorities, § 5:19

corporate culture, § 5:17

economic considerations, § 5:20

follow-up, § 5:13

length of time to address
perceived problems, § 5:18

new technology, § 5:15

preventative systems, § 5:12

training, § 5:14

Appeals, § 5:52

Approval requirements, § 2:43

Back-up systems, § 5:22

Checklist, **APP G**

Circulation of environmental policy
statement, § 5:42

Coincidence between mens rea and
actus reus, § 5:43

Complicity by regulator in breach,
§ 5:21

Conformity with standards, § 5:47,
§ 5:48

Contracting out, § 5:34 to § 5:40

Control systems, § 5:12, § 5:42

Corporations, § 6:17 to § 6:19

Delegating responsibilities to
employees, § 5:42

DUE DILIGENCE—Cont'd

“Ensure,” statutory language imposing strict duty, § 2:77
Exoneration of hiring contractors, § 5:40
Explaining how offence occurred, § 5:4
Factors to consider
 generally, § 5:5, § 5:7
 ability to control impugned conduct, § 5:30
 alternatives, § 5:11 to § 5:21
 control, § 5:39, § 5:41
 degree of knowledge/skill, § 5:22, § 5:23
 economic considerations, § 5:20, § 5:21
 employees’ deliberate or negligent misconduct, § 5:42
 foreseeability of harm, § 5:5, § 5:22
 gravity of potential harm, § 5:10
 regulatory compliance, § 5:8
 reliance on experts, § 5:26
 standard business practice, § 5:5, § 5:8, § 5:22
 timeliness and responsiveness to regulator’s staff, § 5:18, § 5:50
General areas to be covered, APP G
Government entities, § 5:21
Hazardous waste haulers, APP F
Landlord’s responsibility for and to tenants, § 5:41
Manufacturer’s liability, § 5:5, § 5:18, § 5:25
Mistake of fact, § 5:44
Mistake of law, § 5:45
Necessity and impossibility, § 5:51
Non-compliance, § 2:85
Officially induced error, § 5:46 to § 5:50
Petrochemical industry, sound business practices
Ministry checklist, APP H

DUE DILIGENCE—Cont'd

Relevant standard on the offence date, § 5:24
Remediator of last resort, § 5:31
Spills, § 5:6
 prevention and remediation of, § 2:34
Standard of proof, § 5:2
Vandalism, § 5:22
Vicarious liability, § 5:8, § 6:22, § 6:23
What defendant must prove, § 5:5

EMPLOYEE INTERVIEWS

Generally, § 3:25 to § 3:33

ENFORCEMENT

Part III of the Provincial Offences Act
 found committing summons, § 7:84
 laying charges (IEB referral), § 7:84
Part I of the Provincial Offences Act
 Tickets and Summonses, § 7:84

ENTRAPMENT

Generally, § 4:11

ENVIRONMENTAL AUDITS

Generally, § 3:74, § 7:114

ENVIRONMENTAL

EVALUATIONS, ACCESS TO

Generally, § 3:69, § 3:73 to § 3:79

**ENVIRONMENTAL EVENTS,
LAWS OF NOTIFICATION**

Federal laws, APP B § B:16 to § B:34
Ontario laws, APP B § B:1 to § B:15

**ENVIRONMENTAL OFFENCES,
CORPORATE LIABILITY**

Common law criminal contempt, § 6:6
Common nuisance, § 6:2

**ENVIRONMENTAL OFFENCES,
CORPORATE LIABILITY**

—Cont’d

Criminal negligence, § 6:3

Mischief, § 6:5

**ENVIRONMENTAL
PROTECTION ACT**

Generally, § 2:1

**ENVIRONMENTAL
PROTECTION
ALTERNATIVE MEASURES
(E.P.A.M.S)**

Generally, § 7:80

ESTOPPEL

Generally, § 5:46

EVIDENCE

See Procedure and evidence

**EVIDENCE COMPELLED BY
STATUTE**

Commencement of adversarial relationship, § 3:22

Corporate defendants, § 3:23

Random demands for information,
§ 3:21

Routine demands for information,
§ 3:20

Use in subsequent prosecution,
§ 3:17 to § 3:24

Voluntariness, § 3:15, § 4:71

EXPERTS

Absence of first hand knowledge,
§ 4:88

Court room reconstructions and
demonstrations, § 4:93

Disclosure, § 4:90, § 4:91

Findings of other courts and
tribunals on qualifications and
reliability, § 4:87

General principles, § 4:82

Independence of, § 4:86

Notice, § 4:90

Number of experts, § 4:92

EXPERTS—Cont’d

Qualifications, § 4:85

Reasons for rejecting experts,
§ 4:84

Weight, § 4:89

FALSE INFORMATION

Generally, § 2:93, § 2:94

FEDERAL ENCLAVES

Generally, § 1:12

FEDERAL JURISDICTION

See also Constitutional issues,
Municipal jurisdiction,
Provincial jurisdiction

Characterization as federal
undertaking, § 1:16

Federal enclaves, § 1:12

Indians, § 1:26

Lands reserved for Indians
see Lands reserved for Indians

National concern test, § 1:6

Navigation and shipping, § 1:2

FILING REPORTS

Generally, § 2:89

FISHERIES ORDERS

Generally, § 7:97

FISH HABITAT

Definition, § 2:109

Harmful alteration, disruption or
destruction, § 2:110

**FOREIGN JUDGMENTS,
ENFORCEABILITY OF**

Generally, § 7:118

FORTHWITH

Generally, § 2:26

**GUIDES, STANDARDS, AND
CODES, ENFORCEABILITY
OF**

Generally, § 2:14

HAZARDOUS WASTE

Generally, § 2:59, § 2:60

**HEALTH AND SAFETY LAW,
PARAMOUNTCY AND
DUPLICATION**

Generally, § 2:96

HOT CALLS

See Employee interviews, Evidence
compelled by statute,
Interviews by provincial
officers, Search and seizure

**IDENTIFICATION THEORY
DOCTRINE**

Generally, § 6:19

IMPOSSIBILITY

Generally, § 5:18

INCLUDED OFFENCES

Generally, § 4:68

INDIANS

See also Aboriginal rights, Lands
reserved for Indians

Generally, § 1:26

Suitability of jail as sentence,
§ 7:23

INJUNCTIONS

Generally, § 7:104.50

INSPECTIONS

Gathering evidence of offence,
§ 3:35 to § 3:41

Interdepartmental sharing of infor-
mation, § 3:5

Legal counsel's plant checklist,
APP D

Rights of those being inspected,
§ 3:45

Sample notice to inspector/
investigator, **APP C**

Subject's rights and, § 3:9

INSURANCE, DUTY TO DEFEND

Generally, § 2:33

**INTERJURISDICTIONAL
IMMUNITY**

Generally, § 1:9

**INTERVIEWS BY PROVINCIAL
OFFICERS**

Generally, § 3:2

Advice to counsel, § 3:11

Checklists of probable questions,
APP E

Obstruction, § 3:3

Provincial officer's powers, § 3:3

Right to counsel, § 3:10

Right to remain silent
see Right to remain silent

**IRREVOCABLE LETTERS OF
GUARANTEE**

Generally, § 7:98

**ISO/CD 14001 CERTIFICATION
PROGRAM**

Generally, § 7:115

JOINT SUBMISSIONS

Generally, § 7:31

JUDICIAL NOTICE

Generally, § 4:94

JUDICIAL ORDERS

Generally, § 3:7

Interviews, § 3:8

Investigative aids (e.g., tracking
devices, chemical tracers,
electric trackers, accompany-
ing experts), § 3:7

Site access, § 3:6

JUDICIAL REVIEW

Over information or offence,
§ 4:126

Over offender, § 4:126

Prosecutorial discretion, of, § 4:2

**JURISDICTION OVER THE
INFORMATION OR
OFFENCE AND OVER THE
OFFENDER**

Generally, § 4:126

**KIENAPPLE PRINCIPLE,
APPLICATION OF**

Generally, § 7:38 to § 7:41

LAND

Defined, § 2:7

Implied licence to enter, § 3:47,
§ 3:48

Open fields doctrine, § 3:48

**LANDS RESERVED FOR
INDIANS**

See also Indians

Generally, § 1:27

Incorporation by reference, § 1:29

LEGITIMATE EXPECTATION
Generally, APP WP § WP:101

LICENCE SUSPENSIONS

Generally, § 7:100

LIMITATION PERIODS

Administrative monetary penalties,
§ 2:128

Conservation Authority Act,
§ 2:135

Due diligence, and, § 5:43

Environmental Protection Act,
§ 2:134

Fisheries Act, § 2:129

Waste disposal, § 2:73

**LIMITED POLLUTION
LIABILITY INSURANCE**

Generally, § 2:33

LITTERING

Generally, § 2:78

MANAGEMENT AND CONTROL

Generally, § 2:6, § 5:30

**MANDATORY MINIMUM
SENTENCES**

Generally, § 7:50

MARTIN REPORT

See also Disclosure by Crown

Generally, § 4:26

MARTIN REPORT—Cont'd

Costs of disclosure, § 4:36

Crown, requirements on, § 4:26

Crown/public interest privilege,
§ 4:28

Defence request to inspect file,
§ 4:26

Disclosure to public, § 4:26

Information in Crown's possession,
§ 4:24, § 4:28

Interviewing Crown witnesses,
§ 4:32

Private prosecutions, § 1:41

Provincial offences, § 4:26

MATERIAL DISCOMFORT

Generally, § 2:16

MENS REA OFFENCES

Generally, § 5:1, § 6:2 to § 6:6

MISTAKE OF FACT

Generally, § 5:44

MISTAKE OF LAW

Generally, § 5:45

MISTRIALS

Generally, § 4:119

**MULTIPLE OFFENCES ARISING
FROM COMMON DELICT**

Adverse effects, § 2:10

Closely held corporations/
executives of corporations,
§ 7:41

Environmental health and safety
laws, § 2:96

Operating waste management site
and depositing waste, § 2:62,
§ 2:67

Sentence, § 7:38 to § 7:40

**MUNICIPAL ENVIRONMENTAL
BY-LAWS**

Generally, § 1:25

**MUNICIPAL INDUSTRIAL
STRATEGY FOR
ABATEMENT (“MISA”)**

Generally, § 3:20

MUNICIPAL JURISDICTION

Generally, § 1:11, § 1:16

NATIONAL CONCERN TEST

Generally, § 1:6

NATURAL ENVIRONMENT

Generally, § 2:7

**NIAGARA ESCARPMENT
PLANNING AND
DEVELOPMENT ACT**

Generally, § 2:138, § 2:139

NON-COMPLIANCE

Generally, § 2:79 to § 2:85

NON-SUITS

Generally, § 4:109

NOTICE

Pollution discharges, § 2:24 to
§ 2:28

Seeking higher penalty, § 7:49
Spills, § 2:29

NOTIFICATION

Canada Shipping Act, 2001
generally, **APP B § B:16**
Vessel Pollution and Dangerous
Chemicals Regulations,
APP B § B:16

Canadian Environmental Protection
Act, 1999, **APP B § B:17 to
§ B:23**

Environmental Emergency
Regulations, **APP B § B:19**

Export and Import of Hazardous
Waste and Hazardous
Recyclable Material Regula-
tions, **APP B § B:22**

PCB Regulations, **APP B § B:23**
Release and Environmental
Emergency Notification

NOTIFICATION—Cont’d

Canadian Environmental Protection
Act, 1999, **APP B § B:17 to
§ B:23—Cont’d**

Regulations, **APP B § B:20**

Tetrachloroethylene (Use in Dry
Cleaning and Reporting
Requirements) Regulations,
APP B § B:21

Environmental Protection Act
generally, **APP B § B:1 to § B:5**

Air Pollution and Local Air
Quality, **APP B § B:2**

effluent monitoring, **APP B § B:4**

General and Waste Manage-
ment, **APP B § B:3**

Greenhouse Gas Emissions
Reporting, **APP B § B:5**

Fisheries Act, **APP B § B:24**

Nuclear Safety and Control Act
generally, **APP B § B:27 to
§ B:31**

General Nuclear Safety and
Control Regulations, **APP B
§ B:28**

Nuclear Substances and Radi-
ation Devices Regulations,
APP B § B:30

Packaging and Transport of
Nuclear Substances Regula-
tions, **APP B § B:31**

Radiation Protection Regulations,
APP B § B:29

Ontario Water Resources Act
generally, **APP B § B:6, § B:7**
Water Taking and Transfer, **APP
B § B:7**

Pesticides Act, **APP B § B:8**

Safe Drinking Water Act, 2002,
APP B § B:9

Technical Standards and Safety Act,
2000
generally, **APP B § B:10 to
§ B:15**

Compressed Gas, **APP B § B:10**

NOTIFICATION—Cont’d

- Technical Standards and Safety Act,
2000—Cont’d
 - Environmental Management
Protocol for Fuel Handling
Sites in Ontario, **APP B**
§ B:14
 - Fuel Oil, **APP B § B:12**
 - Gaseous Fuels, **APP B § B:11**
 - Liquid Fuels, **APP B § B:13**
 - Transportation of Dangerous Goods
Act, 1992, **APP B § B:32**,
§ B:33
 - Road, Rail and Marine Reports,
APP B § B:33
 - Transportation Safety Board
Regulations, **APP B § B:34**

NUCLEAR ENERGY

- Generally, **§ 1:22**

NUCLEAR SAFETY

- Generally, **§ 1:22**, **§ 2:14**, **§ 2:79**,
§ 2:132, **§ 6:12**, **§ 6:15**, **§ 7:82**

OBSTRUCTION

- Generally, **§ 2:92 to § 2:95**, **§ 3:3**,
§ 3:58
- Self-incrimination, **§ 3:24**

OFFENCES

- Breach of probation orders, **§ 2:91**
- Crown immunity, **§ 2:90**
 - see also Crown immunity
- Economics as defence, **§ 2:86**
- Filing reports, **§ 2:89**
- Furnishing false information,
§ 2:93, **§ 2:94**
- Non-compliance, **§ 2:79 to § 2:85**
- Obstruction, **§ 2:92 to § 2:95**
- Requirement to furnish information,
§ 2:93
- Waterways
 - see Water and watercourses

OFFICERS’ LIABILITY

- See Corporate liability

OFFICIALLY INDUCED ERROR

- Generally, **§ 4:24**, **§ 4:42**, **§ 4:79**,
§ 4:117, **§ 5:46 to § 5:50**

ONUS OF PROOF

- See Burden of proof

OPEN FIELDS DOCTRINE

- Generally, **§ 3:48**

OPINION EVIDENCE

- Experts, **§ 4:82**, **§ 4:84**
- Lay witnessess, **§ 4:80**

PARAMOUNTCY

- Generally, **§ 1:24**

PARTICULARS

- Generally, **§ 4:51 to § 4:62**

PARTNERSHIPS

- Generally, **§ 6:35**

PATHOLOGICAL WASTE

- Generally, **§ 2:60**

PCBS

- Disposal/management, **§ 2:70**,
§ 2:76, **§ 2:77**, **§ 5:8**
- Impairment of water quality,
§ 2:122
- Regulation, **§ 1:15**

PERMIT SHIELDING

- Generally, **§ 2:50**

PESTICIDES ACT

- Generally, **§ 2:137**

PH

- Impairment of water quality,
§ 2:126

PHOTOGRAPHS

- Generally, **§ 4:96**

PIERCING CORPORATE VEIL

- Generally, **§ 6:34**

PIPELINES, INTERPROVINCIAL

- Generally, **§ 1:16**

**PIPELINES, INTERPROVINCIAL
—Cont'd**

Reporting occurrences, **APP B**
§ **B:34**

PLAIN VIEW DOCTRINE

Generally, § **3:59**

POLLUTER-PAYS PRINCIPLE

Generally, § **7:13**

POLLUTION

Acts of third parties, § **2:6**

Adverse effect

see Adverse effect

Cause or permit, § **2:6**

Constitutionality, § **2:22**

Contaminant, § **2:5**

Continuing consequences, § **2:21**

Discharge, § **2:4**, § **2:21**

Natural environment, § **2:7**

Notice to ministry, § **2:24** to § **2:28**

Statutory provision, § **2:2** to § **2:4**

PRECAUTIONARY PRINCIPLE

Generally, § **2:12**

PRESCRIPTION PERIODS

See Limitation periods

PRIVATE PROSECUTIONS

Generally, § **1:41**

Prosecutors share of the fine, § **7:96**

PRIVILEGE

Common interest privilege, § **3:66**

Environmental audits, **APP D**,
§ **3:70**, § **3:73** to § **3:79**

Informants' privilege, § **4:27**

Innocence at stake exception,
§ **4:32**

Medical privilege, § **4:30**

Plea negotiation privilege, § **4:29**,
§ **7:31**

Proprietary information, § **4:31**

Prosecution and investigative work
product, § **4:28**

PRIVILEGE—Cont'd

Solicitor-client privilege

generally, § **3:62** to § **3:70**,
§ **4:28**

litigation, § **3:67** to § **3:69**

waiver, § **3:65**

waiver and conflict, § **3:29** to
§ **3:33**

Waiver, § **3:65**

**PROBATION ORDERS, BREACH
OF**

Generally, § **2:91**

PROCEDURE AND EVIDENCE

Abuse of process, § **4:1** to § **4:16**,
§ **4:108**

Agreed-upon facts, § **4:69**

Amendment of information, § **4:59**
to § **4:62**

Bad character, § **4:108**, § **4:118**

Best evidence rule, § **4:105**

Burden of proof

generally, § **4:73** to § **4:76**

authorizations, exceptions or
qualifications, § **4:75**, § **4:76**
due diligence and other defences,
§ **4:74**

environmental analysis, impeach-
ing, § **4:111**

Business records, § **4:97**

Calling Crown witnesses, § **4:40** to
§ **4:42**

Carriage of prosecution, § **1:41**

Certificate of analysis, § **4:110**

Circumstantial evidence, § **4:78**

Conjunctive allegations, § **4:65**

Corporations, statements against
interest, § **4:70**, § **4:79**

Courtroom demonstrations, § **4:93**

Cross-examination, § **4:118**

Disclosure by Crown

see Disclosure by Crown

Documents, § **4:97**

Duplicity, § **4:50**

Electing trial forum, § **4:125**

PROCEDURE AND EVIDENCE

—Cont'd

- Electronic records, § 4:103
- Evidence obtained in foreign country, § 4:107
- Evidence of previous convictions, § 4:108, § 4:118
- Experiments, § 4:93
- Expert witnesses, § 4:87, § 4:90 to § 4:93, § 4:118
- Explaining how offence occurred, § 5:4
- Forum, § 4:123 to § 4:125
- Guilty plea, withdrawal of, § 4:120, § 4:121
- Hearsay evidence, § 4:79
- Joinder of defendants, § 4:66
- Joinder of information/counts, § 4:67
- Judicial notice, § 4:94
- Lost or unavailable evidence, § 4:33
- Material witnesses, § 4:41, § 4:42
- Mistrials, § 4:119
- Motion to quash, § 4:59
- Non-suits, § 4:109
- Notes, § 4:24, § 4:33
- Novel scientific evidence, § 4:85
- Opinions, § 4:82, § 4:92
- Particulars, § 4:51 to § 4:62
- Photographs, § 4:96
- Preservation of evidence, § 4:35
- Preservation of samples, § 4:112, § 4:113
- Proof of essential ingredients generally, § 4:44 to § 4:65
- conjunctive allegations, § 4:65
- deleterious substances/waste, § 4:46, § 4:61
- duplicitous information, § 4:50, § 4:59
- erroneous averments, in information, § 4:59
- erroneous location, § 4:60

PROCEDURE AND EVIDENCE

—Cont'd

- Proof of essential ingredients
 - Cont'd
 - evidence outside charging document, § 4:45
 - federal charges, § 4:48
 - particulars, § 4:51, § 4:53 to § 4:57
 - place of offence, § 4:47
 - provincial charges, § 4:49
 - swearing the information, § 4:46
 - time, § 4:52, § 4:62
- Proof of facts alleged in charge, § 4:69 to § 4:107
- Proof of official documents, § 4:114
- Proof of reception or issuance, § 4:116
- Proof of service, § 4:115
- Pursue evidence, failure to, § 4:35
- Refreshing memory, § 4:97
- Reopening case, § 4:122
- Sampling protocols, § 4:113
- Self-incrimination, § 4:118
- Splitting case, § 4:117
- Style of cause, § 1:39
- Subpoenas, § 4:40 to § 4:42
- Verbatim notes, § 4:72
- Videotapes, § 4:96

PRODUCTION (THIRD PARTY)

- Generally, § 4:23, § 4:24

PROPERTY DEVELOPMENT

- Generally, § 1:11, § 1:16

PROSECUTORIAL DISCRETION, JUDICIAL REVIEW OF

- Generally, § 4:2

PROVINCIAL JURISDICTION

- See also Constitutional issues, Federal jurisdiction, Municipal jurisdiction
- Applicability to federal undertaking, § 1:11
- Characterization, § 1:16

PROVINCIAL JURISDICTION

—Cont'd

General principles, § 1:1

Laws of general application, § 1:9,
§ 1:10

Waterways, § 1:2

PUBLIC APOLOGY

Generally, § 7:104

PUBLICATION ORDERS

Generally, § 7:103

PUBLIC INTEREST PRIVILEGE

Generally, § 4:28

**QUESTIONING BY
AUTHORITIES**

See Interviews by provincial
officers

RAILWAYS

Generally, § 1:10, § 1:20

Railway occurrences, **APP B**
§ B:34

**REASONABLE AND PROBABLE
GROUNDS**

Generally, § 3:12, § 3:22, § 3:35 to
§ 3:37, § 3:41, § 3:42, § 4:109

RECORD OF SITE CONDITION

Generally, § 2:57.50

RECYCLABLE MATERIAL

Generally, § 2:60

RECYCLE MARKET

Generally, § 2:60

REDUNDANCY (IN REPORTING)

Generally, § 7:11

REGULATORY STANDARDS

Due diligence, § 5:5

Relevance re: assessing injury or
property damage, § 2:14

**REMEDIATOR OF LAST
RESORT**

Generally, § 5:31

**RESPONSIBLE SHARE
DOCTRINE**

Generally, § 6:12

RESTITUTION ORDERS

Generally, § 7:96

RESTORATION ORDERS

Generally, § 7:97

RESTRAINING ORDERS

Generally, § 2:79, § 7:99

RIGHT TO COUNSEL

Generally, § 3:10

RIGHT TO PRIVACY

Generally, § 3:48

RIGHT TO REMAIN SILENT

Generally, § 3:11

Adverse inferences, § 3:14

Compellability to testify/produce
documents, § 3:14

Detention, § 3:13

Stopping vehicles, § 3:13

Suspicious circumstances, § 3:12

SAFETY CULTURE

Corporate culture, § 5:17

Human performance

generally, **APP I**

decision-making, **APP I**

resources, **APP I**

work control, **APP I**

work practices, **APP I**

Problem identification and resolu-
tion

generally, **APP I**

corrective action program, **APP I**

operating experience, **APP I**

self- and independent assess-
ments, **APP I**

Safety conscious work environment

generally, **APP I**

environment for raising concerns,
APP I

SAFETY CULTURE—Cont'd

- Safety conscious work environment
—Cont'd
- preventing, detecting and mitigating perceptions of retaliation, **APP I**

SEARCH AND SEIZURE

- Authorization and production orders, § **3:51**
- Consensual searches, § **3:49**
- Contextual approach, § **3:38**, § **3:39**
- Detention of things seized, § **3:61.50**
- Evidentiary approach, § **3:36**
- Expectation of privacy, § **3:50**
- Implied licence to enter land, § **3:47**
- Inspections, § **3:35** to § **3:41**
see also Inspections
- Law offices, constitutionality, § **3:64**
- Open fields doctrine, § **3:48**
- Search warrants
see Search warrants
- Vehicles, § **3:45**
- Warrantless searches, § **3:39**, § **3:42**

SEARCH WARRANTS

- Access to search warrant documents, § **3:53**
- Computers, § **3:57**
- Documents required to carry on business, **APP D**
- Environmental audits, § **3:69** to § **3:72**
- Invalidity, § **3:52**
- Obstruction, § **3:58**
- Photocopies of seized documents, **APP D**, § **3:55**
- Plain view doctrine, § **3:59**
- Presence of lawyer, § **3:52**
- Return of irrelevant documents, § **3:55**
- Scope of seizure, § **3:56**
- Selection of documents, § **3:56**

SEARCH WARRANTS—Cont'd

- Solicitor-client privilege, § **3:62** to § **3:67**
- Sufficiency of information underlying, § **3:54**
- Third party premises, § **3:60**
- Vehicles, for, § **3:45**, § **3:61**

SELF-CRITICAL PRIVILEGE

- Generally, § **3:72**

SELF-EVALUATIVE PRIVILEGE

- Generally, § **3:72**

SELF-INCRIMINATION

- Commencement of adversarial relationship, § **3:22**
- Corporations, § **3:23**
- Evidence compelled by statute, § **3:17** to § **3:24**
- Impeach credibility in other proceedings, § **4:118**
- Obstruction charges, § **3:24**
- Random demands for information, § **3:21**
- Routine demands for information, § **3:20**

SENTENCING

- Aboriginals, § **7:23**
- Administrative penalties, § **7:51**
- Admissibility, settlement discussions, § **7:31**
- Aggravating factors, burden of proof, § **7:35**
- Appeals, § **7:119**
- Audits, environmental, § **7:114**
- Canada Shipping Act, 2001, under, § **7:2**
- Case law, § **7:38** to § **7:41**, § **7:87**, § **7:101**
- Conditional discharges, § **7:88**
- Contributory negligence of government, § **7:25**
- Corporate survival, § **7:5**
- Criminality of conduct, § **7:6**
- Denunciation, § **7:3**

SENTENCING—Cont'd

Deterrence, § 7:3
 Disparity, § 7:15
 Diversion, § 7:80
 Driver licence suspensions, § 7:100
 Economic considerations, § 5:20
 Effect on environment, § 7:7
 E.P.A.M.s, § 7:80
 Excessive government standards,
 § 7:26
 Factors to consider, § 7:2
 Fisheries orders, § 7:97
 Forfeiture of monetary benefit,
 § 7:93
 Government condonation, § 7:25
 Government defendants, § 7:10,
 § 7:11
 see also Crown immunity
 Gravity of offence, classification of,
 § 7:72
 Higher penalties, § 7:45 to § 7:50
 Inexperience of staff, § 5:27
 Jail terms, § 7:42
 Jail terms not appropriate, § 7:43
 Joint submissions, following, § 7:32
 Kienapple principle, application of,
 § 7:38 to § 7:41
 Licence suspensions, § 7:100
 Mandatory minimum sentences,
 § 7:50
 Means to pay, § 7:29, § 7:96
 Mistake of law, § 7:30
 Mitigating factors, § 7:21 to § 7:29,
 § 7:36
 Non-compliance with permits/
 licences, § 7:11
 Ontario environmental penalties,
 challenging, § 7:71
 Options, § 7:93 to § 7:97
 Orders, examples
 see Sentencing orders
 Penological goals and, § 7:94
 Per diem fines, § 7:16
 Polluter-pays principle, § 7:13
 Prior criminal record, § 7:8

SENTENCING—Cont'd

Ranges, starting point, § 7:14
 Record keeping and failure to
 comply with information
 requests, § 7:12, § 7:72
 Remorse, § 7:21
 Restoration orders, § 7:97
 Restraining orders, § 7:99
 Significance of environmental
 offences, § 7:1
 Size of corporation, § 7:4
 Subsequent offences, § 7:48 to
 § 7:50
 Tax deductibility of penalties,
 § 7:19
 Technological/economic realities,
 § 7:24
 Ticketing, § 7:78
 Totality, § 7:18
 Uniformity of fines, § 7:14

SENTENCING ORDERS

Air monitoring, 7:106
 Approval applications, § 7:113
 Caution/caveats, § 7:110
 Community service, § 7:90
 Environmental audits, § 7:114
 Equipment maintenance, § 7:108
 Irrevocable letters of guarantee,
 § 7:98
 ISO/CD 14001 certification
 program, § 7:115
 Notification of directors/officers,
 § 7:111
 Proper storage/transportation,
 § 7:109
 Public apology, § 7:104
 Publication orders, § 7:103
 Restitution orders, § 7:96
 Restoration/protection of environ-
 ment, § 7:97
 Restraining orders, § 7:99
 Spill response program, § 7:107
 Studies/reports, § 7:113
 Training programs, § 7:105
 Trust funds/scholarships, § 7:101

SENTENCING ORDERS—Cont'd

Upkeep and record keeping of
upkeep, § 7:112

SENTENCING TABLES

Fine ranges under various Acts,
APPA

SEWAGE

Generally, § 2:99, § 2:124

SHAREHOLDERS' LIABILITY

Generally, § 6:14

SHIPS

Generally, § 1:21

Constitutional jurisdiction over,
§ 1:21

Directors and officers, engineers,
masters, tugboat operators and
captains of tugboats, liability
of, § 6:7 to § 6:12

Due diligence for condition of,
§ 5:39

Ships, captains and engineers,
sentencing for, § 7:6

Spills
prevention and remediation of,
§ 2:34

SINGLE USE PLASTICS

Generally, § 2:123

SOIL

Contaminated, § 2:57.50

**SOLICITOR-CLIENT
PRIVILEGE**

Generally, § 3:62 to § 3:70, § 4:28

Work product, § 3:62, § 4:28

SPILLS

Constitutional issues, § 1:17

Definitions, § 2:33

Due diligence, § 5:6

Duties, § 2:30

Exceptions, § 2:29

Notice, § 2:29

Ownership/control, § 2:31, § 2:32

SPILLS—Cont'd

Prevention and remediation of,
§ 2:34

STATEMENTS, ADMISSIBILITY

See Evidence compelled by statute

STAYING

Abuse of process, as remedy for,
§ 4:4

Civil proceedings pending criminal
proceedings, § 3:14

SUBPOENAS

Generally, § 4:40 to § 4:42

SUMMONS

On corporation, § 6:32

Outside Canada, § 6:32

Service of, § 6:32

SURCHARGES

Generally, § 7:50

SUSPICION

Generally, § 3:36

TELEWARRANTS

Generally, § 4:96

TICKETING

Generally, § 7:78

TOTAL SUSPENDED SOLIDS

Generally, § 2:125

**TOXIC SUBSTANCES,
REGULATION OF**

Generally, § 1:15

TRIAL

See Mistrials, Procedure and evi-
dence

TRIAL JUDGE'S DISCRETION

Disclosure process, § 4:23

Fines and factors on sentencing,
§ 7:14, § 7:28

Following joint sentence submis-
sions, § 7:32

Introducing documents, § 4:106

TRUST FUNDS/SCHOLARSHIPS

Generally, § 7:101

VANDALISM

Generally, § 5:22

VEHICLES

Search warrants for, § 3:61

Stopping, § 3:13, § 3:45, § 3:61

VERBATIM NOTES

Generally, § 4:72

VICARIOUS LIABILITY

Generally, § 5:8, § 6:22, § 6:23

VIDEO SURVEILLANCE

Generally, § 4:96

VIDEOTAPES

Generally, § 4:96

WARRANTLESS ENTRY

Generally, § 3:45, § 3:48, § 3:61

WARRANTLESS SEARCHES

Admissibility criteria, § 3:39,
§ 3:42 to § 3:44

Exigent circumstances, § 3:46

Initiated by complaints, § 3:42

On-site interrogations, § 3:44

WASTE DISPOSAL

Generally, § 2:62 to § 2:73

Carriers and receivers, obligations
of, § 2:70

Constitutional issues, § 1:14

Constitutional validity, § 2:61

Designated wastes, § 2:52

Exemptions, § 2:54 to § 2:59

Limitation period, § 2:65

WASTE DISPOSAL—Cont'd

Manifests, § 2:74

Multiple convictions, § 2:67

Operating and deposit/storing
offences, § 2:62

Operation without approval, § 2:65

Operator, § 2:69

PCBs, § 2:70, § 5:8

Waste, defined, § 2:53

Waste disposal site, § 2:66

Waste generated on-site, § 2:68

Waste management systems, § 2:64

WASTE MANAGEMENT

See Waste disposal

WATER AND WATERCOURSES

Canada Shipping Act, 2001, pre-
scription period under, § 2:133

Constitutional issues, § 1:2

Defined, § 2:7, § 2:97

Fish habitat, § 2:109, § 2:110

Offences

impairment of water quality,
§ 2:111 to § 2:124

information, wording of, § 2:116
prescription period, § 2:129

Sewage works, § 2:99, § 2:124

Works or undertakings, § 2:103

WELLS

Abandonment, § 6:8

**WHISTLEBLOWER
PROTECTION**

Generally, § 6:28 to § 6:31

WORKS OR UNDERTAKINGS

Generally, § 2:103