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ONTARIO ENVIRONMENTAL PROTECTION ACT ANNOTATED

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This text clearly explains the intentions and effects of almost every section of the *Environmental Protection Act* (EPA), its regulations, and the *Environmental Bill of Rights, 1993*. Annotations of more than 3,000 reported and unreported cases with expert commentary and analysis are included. This text includes: all regulations made under the *Environmental Protection Act* (EPA) and the *Environmental Bill of Rights, 1993*; the purpose and effect of the EPA and the *Environmental Bill of Rights, 1993* and their place in the overall legislative scheme; the penalty for any infraction; a convenient catalogue of reported and unreported cases from both the courts and administrative tribunals; and a Table of Cases to facilitate research.

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What's New in this Update:

This release features updates to Appendix IF (Issues in Focus), and Appendix WP (Words and Phrases).

Highlights

Issues in Focus — Can directors and officers escape liability for environmental offences by establishing that they took “all reasonable care” to avoid the offence? — There has been an increasing trend to hold directors and officers liable for acts of the corporation which have resulted in environmental malfeasance. This has occurred as an attempt to force directors and officers to take increased responsibility for oversight and management of a company's environmental operations. Offences under environmental law statutes are public welfare offences, generally falling within the category of “strict liability”. For these offences, the government regulator must prove that the impugned event, discharge, harm, or contamination occurred (i.e. the *actus reus* occurred) beyond a reasonable doubt, but the defence of “due diligence” is made available to offenders, including directors and officers.

Issues in Focus — To what extent are directors held liable for a corporation's contravention(s) of applicable environmental laws? — The *Environmental Protection Act* [generally] (“EPA”) is the primary, governing source of environmental regulation in Ontario. It sets out a comprehensive regulatory scheme, which is administered and enforced by the Minister of the Environment, Conservation and Parks (the “Ministry”). In situations where a corporation has discharged contaminants into the environment, the Ministry may (in certain circumstances) order both the corporation and its directors to remediate the contamination at their own expense and/or reimburse the Ministry for its expenditures used towards the remediation of the contamination. Corporate directors may appeal Ministry orders (also referred to as administrative orders) to the Environmental Review Tribunal (“ERT”).