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BLAKES' CANADIAN LAW OF ENDANGERED SPECIES

Walton

Release No. 2, October 2025

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 legislation and commentary in Chapters 10-16.

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Highlights:

§ 10:4 Species and Habitat Protection—Summary of Protections—

Habitat is defined in the *ONT ESA, 2007* as one of the following: (1) For an animal species, its dwelling place that is occupied or habitually occupied, and the area immediately around the dwelling place that is essential for the purpose of breeding, rearing, staging, wintering or hibernating; (2) For vascular plants, the critical root zone surround a member of the species; and (3) For all other species, an area on which any member of the species directly or indirectly depends in order to carry on its life processes. This definition is significantly narrower than the earlier version of the Act, which has provided for the prescribing of habitat of a species by regulation, or, if no description of habitat was registered, applied a broad definition similar to the third bullet above. The definition of habitat for animal species more closely resembles the definition of residence on other endangered species laws.

§ 10:28 [ESA § 10 Prohibition on damage to habitat, etc.]—

Commentary—Two contractors pleaded guilty to one count of killing, harming or harassing a threatened species, and one count of damaging or destroying the habitat of a species. The defendants carried out dredging activities at the City of Hamilton's stormwater management ponds. The defendant was ordered to pay \$10,000 and \$35,000 to the Royal Botanical Gardens in accordance with s. 41(1)(4). Charges against the City and its environmental consultants were withdrawn.

§ 10:28 [ESA § 10 Prohibition on damage to habitat, etc.]—

Commentary—An individual was found guilty of killing, harming and taking an endangered species, of possessing and transporting a species; and damaging or destroying the habitat of a species. The defendant was ordered to pay a \$24,000 fine, and was subject to an order to cease all activities related to American Ginseng unless authorised by the Ministry of Environment, Conservation and Parks, and to forfeit all living or dead American Ginseng and all roots in his possession.