

# Other Penalties for Environmental Offences



Companies and individuals convicted of environmental offences are usually sentenced to pay fines or make contributions to environmental groups. In rare cases, individuals may also be sentenced to serve jail time. But the environmental laws often give courts the power to impose additional kinds of penalties for violations, such as orders requiring the defendants to implement environmental emergency plans or perform community service, or injunctions barring them from engaging in certain activities. Here's a look at the other penalties courts may impose on individuals or organizations convicted of violating the primary environmental statutes in each jurisdiction.

OTHER PENALTIES FOR ENVIRONMENTAL OFFENCES

1. An order:
  - a. prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
  - b. directing the offender to take any action that the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;
  - c. directing the offender to prepare and implement a pollution prevention plan or an environmental emergency plan;
  - d. directing the offender to carry out environmental effects monitoring in the manner established by the Minister or directing the offender to pay, in the manner prescribed by the court, an amount for the purposes of environmental effects monitoring;
  - e. directing the offender to implement an environmental management system that meets a recognized Canadian or international standard;
  - f. directing the offender to have an environmental audit conducted by a person of a class and at the times specified by the court and directing the offender to remedy any deficiencies revealed during the audit;
  - g. directing the offender to pay to Her Majesty in right of Canada an amount of money that the court considers appropriate for the purpose of promoting the conservation or protection of the environment;
  - h. directing the offender to publish, in the manner specified by the court, the facts relating to the commission of the offence and the details of the punishment imposed, including any orders made under this subsection;
    - i. directing the offender to notify, at the offender's own cost and in the manner specified by the court, any person aggrieved or affected by the offender's conduct of the facts relating to the commission of the offence and of the details of the punishment imposed, including any orders made under this subsection;
  - j. directing the offender to post any bond or pay any amount of money into court that will ensure compliance with any order made under this section;
  - k. directing the offender to submit to the Minister, on application by the Minister made within three years after the date of conviction, any information with respect to the offender's activities that the court considers appropriate and just in the circumstances;
  - l. directing the offender to compensate any person, monetarily or otherwise, in whole or in part, for the cost of any remedial or preventive action taken, caused to be taken or to be taken as a result of the act or omission that constituted the offence, including costs of assessing appropriate remedial or preventive action;
  - m. directing the offender to perform community service, subject to any reasonable conditions that may be imposed in the order;
- n. directing the offender to pay, in the manner prescribed by the court, an amount for the purposes of conducting research into the ecological use and disposal of the substance in respect of which the offence was committed or research relating to the manner of carrying out environmental effects monitoring;
- o. directing the offender to pay, in the manner prescribed by the court, an amount to environmental, health or other groups to assist in their work in the community where the offence was committed;
- p. directing the offender to pay, in the manner prescribed by the court, an amount to an educational institution including for scholarships for students enrolled in studies related to the environment;
- q. requiring the offender to comply with any other conditions that the court considers appropriate in the circumstances for securing the offender's good conduct and for deterring the offender and any other person from committing offences under this Act;
- r. requiring the offender to surrender to the Minister any permit or other authorization issued under this Act to the offender; and
- s. prohibiting the offender from applying for any new permit or other authorization under this Act during any period that the court considers appropriate [Sec. 291(1)].

2. An order requiring the offender to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property suffered by that person as a result of the commission of the offence [Sec. 292(1)].

AB	<p style="text-align: center;"><i><u>Environmental Protection and Enhancement Act:</u></i></p> <ol style="list-style-type: none"> <li>1. An order:           <ol style="list-style-type: none"> <li>a. prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;</li> <li>b. directing the offender to take any action the court considers appropriate to remedy or prevent any harm to the environment that results or may result from the act or omission that constituted the offence</li> <li>c. directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;</li> <li>d. directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the conviction, in the prescribed manner and at the offender's cost;</li> <li>e. directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;</li> <li>f. on application to the court by the Minister made within three years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;</li> <li>g. directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action that was carried out or caused to be carried out by the Government and was made necessary by the act or omission that constituted the offence;</li> <li>h. directing the offender to perform community service; and</li> <li>i. requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences [Sec. 234(1)].</li> </ol> </li> <li>2. An order directing the offender to pay to an aggrieved person an amount by way of satisfaction or compensation for loss of or damage to property suffered by that person as a result of the commission of the offence [Sec. 235(1)].</li> </ol>
BC	<p style="text-align: center;"><i><u>Environmental Management Act:</u></i></p> <ol style="list-style-type: none"> <li>1. An order:           <ol style="list-style-type: none"> <li>a. prohibiting the person from doing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence;</li> <li>b. directing the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that resulted or may result from the commission of the offence;</li> <li>c. directing the person to pay the government an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the government as a result of the commission of the offence;               <ol style="list-style-type: none"> <li>d. directing the person to perform community service;</li> </ol> </li> <li>e. directing the person to pay an amount of money the court considers appropriate to the trustee under Part 3 of the <i>Wildlife Act</i> for inclusion in the trust property, as that term is defined in Sec. 118 of that Act;               <ol style="list-style-type: none"> <li>f. directing the person to post a bond or pay into court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section;</li> </ol> </li> <li>g. directing the person to submit to the minister, on application by the minister within three years after the date of the conviction, any information respecting the activities of the person that the court considers appropriate in the circumstances;</li> <li>h. directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence; and</li> <li>i. requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences under this Act [Sec. 127(1)].</li> </ol> </li> </ol>

MB	<p style="text-align: center;"><u><i>The Environment Act:</i></u></p> <ol style="list-style-type: none"> <li>1. Suspension or revocation of all or part of the environmental licences or permits under which the individual or corporation operates, for such time as the judge deems fit [Secs. 33(1) and 33(2)].</li> <li>2. An order require the convicted person to do any or all of the following things:             <ol style="list-style-type: none"> <li>a. take such action as may be necessary to refrain from committing any further offence under this Act, or from causing further environmental damage;</li> <li>b. take such action as may be necessary to clean or restore the environment from damage caused by the offence;</li> <li>c. pay such damages or make restitution to any person who suffered damages by the offence as the judge may deem appropriate; and</li> <li>d. pay such additional fine in an amount no greater than the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, notwithstanding any maximum fine elsewhere provided [Sec. 36].</li> </ol> </li> </ol>
NB	<p style="text-align: center;"><u><i>Clean Environment Act</i></u> doesn't provide for remedies other than fines.</p>
NL	<p style="text-align: center;"><u><i>Environmental Protection Act:</i></u></p> <ol style="list-style-type: none"> <li>1. An order:             <ol style="list-style-type: none"> <li>a. prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;</li> <li>b. directing the offender to take the action the court considers appropriate to remedy or prevent an adverse effect that results or may result from the act or omission that constituted the offence;</li> <li>c. directing the offender to publish in a required manner, and at the cost of the offender, the facts relating to the conviction;</li> <li>d. directing the offender to notify a person, aggrieved or affected by the conduct of the offender, of the facts relating to the conviction, in the required manner, and at the cost of the offender;</li> <li>e. directing the offender to post a bond or pay money into court in an amount that will ensure compliance with an order made under this section;</li> <li>f. on application to the court by the minister within three years after the date of conviction, directing the offender to submit to the minister information with respect to the conduct of the offender that the court considers appropriate in the circumstances;</li> <li>g. directing the offender to compensate the Crown, in whole or in part, for the cost of a remedial or preventable action that was carried out by the government of the province and was made necessary by the act or omission that constituted the offence;</li> <li>h. directing the offender to perform community service; and</li> <li>i. requiring the offender to comply with other conditions the court considers appropriate in the circumstances for securing the good conduct of the offender and for preventing the offender from repeating the offence or committing another offence [Sec. 119(1)].</li> </ol> </li> </ol>

NT/NU

Environmental Protection Act:

1. An order:
  - a. prohibiting the person from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
  - b. directing the person to take any action that the court considers appropriate to remedy any harm to the environment that results or may result from the act or omission that constituted the offence;
  - c. directing the person to take any action that the court considers appropriate to avoid any harm to the environment that may result from the act or omission that constituted the offence;
  - d. directing the person to publish, in the manner determined by the court, the facts relating to the offence;
  - e. directing the person to notify, at his or her own cost and in a specified manner, any person aggrieved or affected by the person's conduct of the facts relating to the offence;
  - f. directing the person to post a bond or pay an amount of money into court that will ensure compliance with any order made under this section;
  - g. cancelling or suspending any permit or licence issued under this Act or other regulations;
  - h. directing the person to pay the cost of any research or analysis related to the prosecution of the offence;
  - i. any further terms the court considers appropriate in the circumstances; and
  - j. requiring the offender to comply with any other reasonable conditions that the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the offence or committing other offences under this Act [Sec. 12.2].

NS	<p style="text-align: center;"><i><a href="#">Environment Act</a></i>:</p> <ol style="list-style-type: none"> <li>1. An order:           <ol style="list-style-type: none"> <li>a. prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;</li> <li>b. directing the offender to take any action the court considers appropriate to remedy or prevent any adverse effect that results or may result from the act or omission that constituted the offence;</li> <li>c. directing the offender to publish, in the prescribed manner and at the cost of the offender, the facts relating to the conviction;</li> <li>d. directing the offender to notify any person aggrieved or affected by the conduct of the offender, of the facts relating to the conviction, in the prescribed manner and at the cost of the offender;</li> <li>e. directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this Section;</li> <li>f. on application to the court by the Minister within three years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;</li> <li>g. directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action that was carried out or caused to be carried out by the Government and was made necessary by the act or omission that constituted the offence;</li> <li>h. directing the offender to perform community service;</li> <li>i. directing the offender to pay to the Minister the costs incurred by the Minister in carrying out the investigation of the offence;</li> <li>j. directing the offender to dispose of the litter in a manner and within the time prescribed by the Minister; and</li> <li>k. requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the good conduct of the offender and for preventing the offender from repeating the offence or committing other offences [Sec. 166(1)].</li> </ol> </li> <li>2. An order requiring the offender to pay to a person an amount not to exceed \$5,000 or such other amount as is prescribed by the regulations by way of satisfaction or compensation for loss or damage to property suffered by that person as a result of the commission of the offence [Sec. 168(1)].</li> </ol>
ON	<p style="text-align: center;"><i><a href="#">Environmental Protection Act</a></i>:</p> <ol style="list-style-type: none"> <li>1. An order:           <ol style="list-style-type: none"> <li>a. to take such action, including but not limited to providing a temporary or permanent alternate water supply, as the court directs within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is in any way connected to the commission of the offence;</li> <li>b. where the offence is in relation to a waste management system or waste disposal site, to take such action as is required to bring the system or site into conformity with Part V or the regulations within the time specified in the order; and</li> <li>c. to comply with any order issued under this Act to the person in relation to damage that results from or is in any way connected to the commission of the offence [Sec. 190(1)].</li> </ol> </li> <li>2. An order containing such other conditions relating to the circumstances of the offence and of the person that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation [Sec. 190(2)].</li> <li>3. An order for restitution against the person convicted of the offence, requiring the person to pay another person for reasonable expenses actually incurred by the other person on account of damage to property in which the other person has an interest that results from or is in any way connected to the commission of the offence, in such amount and on such terms and conditions as the court considers just [Sec. 190.1(1)].</li> <li>4. An order requiring a person to pay all or part of the expenses incurred by the Ministry with respect to the seizure, storage or disposition of anything seized in connection with the offence [Sec. 190.4].</li> </ol>

PE	<p style="text-align: center;"><u><i>Environmental Protection Act:</i></u></p> <ol style="list-style-type: none"> <li>1. An injunction to ensure compliance with this Act or the regulations, which may be prohibitive or mandatory in nature and, where mandatory, may require the taking of action to clean or restore the environment [Sec. 31].</li> <li>2. An order to pay such restitution as the judge thinks fit to any person aggrieved or affected by the contravention or violation [Secs. 32(1) and 32(3)].</li> </ol>
QC	<p style="text-align: center;"><u><i>Environment Quality Act:</i></u></p> <ol style="list-style-type: none"> <li>1. An order to: <ol style="list-style-type: none"> <li>a. refrain from any action or activity that may lead to the continuation or repetition of the offence;</li> <li>b. carry out any action or activity to prevent the offence from being continued or repeated;</li> <li>c. establish a pollution prevention plan or an environmental emergency plan, submit the plan to the Minister for approval and abide by the approved plan;</li> <li>d. carry out follow-up studies on the environmental impact of the activities carried on by the offender or to pay a sum of money to a person or body designated by the judge to carry out such studies;</li> <li>e. take one or more of the following measures, with priority given to those determined by the judge as being best for the protection of the environment: <ol style="list-style-type: none"> <li>i. to restore things to the state they were in prior to the offending act;</li> <li>ii. to restore things to a state approaching their original state;</li> <li>iii. to implement compensatory measures;</li> </ol> </li> <li>iv. to pay compensation, in a lump sum or otherwise, for repair of the damage resulting from the commission of the offence; or</li> <li>v. to pay, as compensation for the damage resulting from the commission of the offence, a sum of money to the Green Fund established under Sec. 15.1 of the Act respecting the <i>Ministère du Développement durable, de l'Environnement et des Parcs</i>;</li> <li>f. provide security or consign a sum of money to guarantee performance of those obligations;</li> <li>g. make public the conviction and any prevention or repair measures imposed, under the conditions determined by the judge; and</li> <li>h. reimburse the Minister for the direct and indirect costs of any restoration or compensatory measures, including interest [Sec. 115.43].</li> </ol> </li> </ol>
SK	<p style="text-align: center;"><u><i>Environmental Management and Protection Act, 2002:</i></u></p> <ol style="list-style-type: none"> <li>1. An order: <ol style="list-style-type: none"> <li>a. requiring the convicted person to remove a substance in a manner and within the period specified by the order</li> <li>b. prohibiting the convicted person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence;</li> <li>c. directing the convicted person to repair any damage to the environment that resulted from the commission of the offence in a manner and within the period specified by the order;</li> <li>d. requiring the convicted person to take steps to prevent any damage to the environment that may result from the commission of the offence in a manner and within the period specified by the order; <ol style="list-style-type: none"> <li>e. directing the convicted person to pay to the minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventative action taken by or at the direction of the minister as a result of the commission of the offence; and</li> </ol> </li> <li>f. requiring the convicted person to do any other thing that, in the opinion of the court, is necessary in the circumstances [Sec. 74(4)].</li> </ol> </li> </ol>

YT	<p style="text-align: center;"><i><a href="#">Environment Act</a></i>:</p> <p style="text-align: center;">1. An order requiring a person to:</p> <ul style="list-style-type: none"><li>a. take any action as may be necessary to refrain from causing any further adverse effect;</li><li>b. to take any action as may be necessary to restore or rehabilitate the natural environment affected by the commission of the offence; and</li><li>c. make restitution to any person who suffered damages as a result of the commission of the offence as the judge may consider appropriate [Sec. 183].</li></ul>
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