

5—Environmental harm

(1) For the purposes of this Act, **environmental harm** is any harm, or potential harm, to the environment (of whatever degree or duration) and includes—

- (a) an environmental nuisance; and
- (b) anything declared by regulation (after consultation under section 5A) or by an environment protection policy to be environmental harm.

(2) For the purposes of this Act, **potential harm** includes risk of harm and future harm.

(3) For the purposes of this Act, the following provisions are to be applied in determining whether environmental harm is **material environmental harm** or **serious environmental harm**:

- (a) environmental harm is to be treated as material environmental harm if—
 - (i) it consists of an environmental nuisance of a high impact or on a wide scale; or
 - (ii) it involves actual or potential harm to the health or safety of human beings that is not trivial, or other actual or potential environmental harm (not being merely an environmental nuisance) that is not trivial; or
 - (iii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$5 000;

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- (b) environmental harm is to be treated as serious environmental harm if—

- (i) it involves actual or potential harm to the health or safety of human beings that is of a high impact or on a wide scale, or other actual or potential environmental harm (not being merely an environmental nuisance) that is of a high impact or on a wide scale; or
- (ii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$50 000.

(4) For the purposes of subsection (3), **loss** includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent or mitigate the environmental harm and to make good resulting environmental damage.

(5) For the purposes of this Act, environmental harm is caused by pollution—

- (a) whether the harm is a direct or indirect result of the pollution; and
- (b) whether the harm results from the pollution alone or from the combined effects of the pollution and other factors.