

Environmental Assessment Act

R.S.O. 1990, CHAPTER E.18

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PART I
INTERPRETATION AND APPLICATION

Interpretation

1 (1) In this Act,

“air” includes enclosed air; (“air”)

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition:
(See: 2020, c. 18, Sched. 6, s. 1 (1))

“designated project” means a Part II.3 project or a Part II.4 project; (“projet désigné”)

“Director” means a person appointed under section 31.1 to act as a Director; (“directeur”)

“environment” means,

- (a) air, land or water,
- (b) plant and animal life, including human life,
- (c) the social, economic and cultural conditions that influence the life of humans or a community,
- (d) any building, structure, machine or other device or thing made by humans,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or
- (f) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Ontario; (“environnement”)

“land” includes enclosed land, land covered by water and subsoil; (“terrain”)

“Minister” means the Minister of the Environment, Conservation and Parks, or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“municipality” subject to subsection 6.0.1 (2), includes a local board as defined in the *Municipal Affairs Act* and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; (“municipalité”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “municipality” in subsection 1 (1) of the Act is amended by striking out “subsection 6.0.1 (2)” and substituting “subsection 17.5 (2)”. (See: 2020, c. 18, Sched. 6, s. 1 (3))

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definitions: (See: 2020, c. 18, Sched. 6, s. 1 (4))

“Part II.3 project” means a project that has been designated by the regulations as a project to which Part II.3 applies or that has been declared by the Minister to be a Part II.3 project by order made under subsection 16 (1) or 17.31 (1); (“projet visé par la partie II.3”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “Part II.3 project” in subsection 1 (1) of the Act is amended by striking out “subsection 16 (1) or 17.31 (1)” at the end and substituting “subsection 17.31 (1)”. (See: 2020, c. 18, Sched. 6, s. 1 (5))

“Part II.4 project” means a project that has been designated by the regulations as a project to which Part II.4 applies and in respect of which an order has not been made under subsection 16 (1) or 17.31 (1); (“projet visé par la partie II.4”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “Part II.4 project” in subsection 1 (1) of the Act is amended by striking out “subsection 16 (1) or 17.31 (1)” at the end and substituting “subsection 17.31 (1)”. (See: 2020, c. 18, Sched. 6, s. 1 (6))

“person” includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of the *Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association; (“personne”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“proceed” includes “carry on”; (“exploiter”, “poursuivre”)

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definition: (See: 2020, c. 18, Sched. 6, s. 1 (4))

“project” means one or more enterprises or activities or a proposal, plan or program in respect of an enterprise or activity; (“projet”)

“proponent” means a person who,

- (a) carries out or proposes to carry out an undertaking, or
- (b) is the owner or person having charge, management or control of an undertaking; (“promoteur”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “proponent” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 1 (7))

“proponent” means a person who,

- (a) carries out or proposes to carry out an undertaking or a project, or
- (b) is the owner or person having charge, management or control of an undertaking or a project; (“promoteur”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “proponent” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 1 (8))

“proponent” means a person who,

- (a) carries out or proposes to carry out a project, or
- (b) is the owner or person having charge, management or control of a project; (“promoteur”)

“provincial officer” means a person designated by the Minister as a provincial officer under Part IV; (“agent provincial”)

“public body” means a body other than a municipality that is defined as a public body by the regulations; (“organisme public”)

“regulations” means the regulations made under this Act; (“règlements”)

“Tribunal” means the Environmental Review Tribunal; (“Tribunal”)

“undertaking” means,

- (a) an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities,
- (b) a major commercial or business enterprise or activity or a proposal, plan or program in respect of a major commercial or business enterprise or activity of a person or persons other than a person or persons referred to in clause (a) that is designated by the regulations, or
- (c) an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity of a person or persons, other than a person or persons referred to in clause (a), if an agreement is entered into under section 3.0.1 in respect of the enterprise, activity, proposal, plan or program; (“entreprise”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “undertaking” in subsection 1 (1) of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 1 (10))

“water” means surface water and ground water, or either of them. (“eau”) R.S.O. 1990, c. E.18, s. 1; 1993, c. 27, Sched. 1996, c. 27, s. 1 (1-5); 2000, c. 26, Sched. E, s. 2 (1); 2000, c. 26, Sched. F, s. 11 (1, 2); 2001, c. 9, Sched. G, s. 3 (1, 2); 2002, c. 17, Sched. F, Table; 2019, c. 9, Sched. 6, s. 1; 2020, c. 18, Sched. 6, s. 1 (2, 9).

Definition of classes

(2) For the purposes of this Act or a regulation, a class may be defined with respect to an attribute, quality or characteristic or combination thereof. 1996, c. 27, s. 1 (6).

Same

(3) A class may be defined to include or exclude one or more members that would otherwise not be included in or excluded from the class. 1996, c. 27, s. 1 (6).

Same

(4) A class may be defined to consist of a specified person, thing, matter or activity. 1996, c. 27, s. 1 (6).

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991; 1996, c. 27, s. 1 (1-6) - 01/01/1997

2000, c. 26, Sched. E, s. 2 (1) - 06/12/2000; 2000, c. 26, Sched. F, s. 11 (1, 2) - 06/12/2000

2001, c. 9, Sched. G, s. 3 (1, 2) - 29/06/2001

2002, c. 17, Sched. F, Table - 01/01/2003

2019, c. 9, Sched. 6, s. 1 - 06/06/2019

2020, c. 18, Sched. 6, s. 1 (1, 3-8, 10) - not in force; 2020, c. 18, Sched. 6, s. 1 (2, 9) - 21/07/2020

Purpose of Act

2 The purpose of this Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment. R.S.O. 1990, c. E.18, s. 2.

Existing aboriginal and treaty rights

2.1 For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2020, c. 18, Sched. 6, s. 2.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 2 - 21/07/2020

Application of Act

3 This Act applies to,

- (a) enterprises or activities or proposals, plans or programs in respect of enterprises or activities by or on behalf of Her Majesty in right of Ontario or by a public body or public bodies or by a municipality or municipalities;
- (b) major commercial or business enterprises or activities or proposals, plans or programs in respect of major commercial or business enterprises or activities of a person or persons, other than a person referred to in clause (a), designated by the regulations;
- (c) an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity of a person or persons, other than a person or persons referred to in clause (a), if an agreement is entered into under section 3.0.1 in respect of the enterprise, activity, proposal, plan or program. R.S.O. 1990, c. E.18, s. 3; 2001, c. 9, Sched. G, s. 3 (3); 2020, c. 18, Sched. 6, s. 3 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 3 of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 3 (2))

Designation of projects

3 (1) The Lieutenant Governor in Council may make regulations designating projects as projects to which Part II.3 or II.4 apply. 2020, c. 18, Sched. 6, s. 3 (2).

Same

(2) A regulation under subsection (1) may designate a project or a class of projects. It may also describe a designated project with reference to a proponent or a class of proponents. 2020, c. 18, Sched. 6, s. 3 (2).

Same, ancillary activities

(3) A project that is designated under subsection (1) includes any enterprise or activity that is ancillary to that project. 2020, c. 18, Sched. 6, s. 3 (2).

Same, ancillary project

(4) A project that is designated as a Part II.3 project includes any Part II.4 project that is ancillary to the Part II.3 project and that has the same proponent as the Part II.3 project. The Part II.4 project shall be deemed not to be a Part II.4 project for the purposes of this Act. 2020, c. 18, Sched. 6, s. 3 (2).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 3 (3) - 29/06/2001

2020, c. 18, Sched. 6, s. 3 (1) - 21/07/2020; [2020, c. 18, Sched. 6, s. 3 \(2\)](#) - not in force

Agreement for application of Act

3.0.1 A person, other than a person referred to in clause 3 (a), who carries out, proposes to carry out or is the owner or person having charge, management or control of an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity may enter into a written agreement with the Minister to have this Act apply to the enterprise, activity, proposal, plan or program. 2001, c. 9, Sched. G, s. 3 (4); 2020, c. 18, Sched. 6, s. 4 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 3.0.1 of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 4 (2))

Agreement for application of Act

3.0.1 (1) A person who carries out, proposes to carry out or is the owner or person having charge, management or control of a project that is not a designated project may enter into a written agreement with the Minister to have all or part of this Act and of the regulations apply to the project. 2020, c. 18, Sched. 6, s. 4 (2).

Deemed Part II.3 or Part II.4 projects

(2) If an agreement is entered into under subsection (1) with respect to a project and the agreement provides for Part II.3 or Part II.4 of this Act to apply with respect to the project, that project is deemed to be a Part II.3 project or a Part II.4 project, as the case may be. 2020, c. 18, Sched. 6, s. 4 (2).

Deemed Part II.1 projects

(3) If an agreement is entered into under subsection (1) with respect to a project and the agreement provides for Part II.1 of this Act to apply with respect to the project, that project is deemed to be an undertaking to which the approved class environmental assessment identified in the agreement applies. 2020, c. 18, Sched. 6, s. 4 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 3.0.1 (3) of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 4 (3))

Transition, previous agreements

- (4) An enterprise or activity or a proposal, plan or program is deemed to be a Part II.3 project if,
- (a) this Act applied to it by virtue of an agreement made before the day subsection 4 (2) of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force; and
 - (b) on the day Part II.3 comes into force, no approval had been given under section 9 or 9.1 to proceed with the enterprise or activity or the proposal, plan or program. 2020, c. 18, Sched. 6, s. 4 (2).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. G, s. 3 (4) - 29/06/2001

2020, c. 18, Sched. 6, s. 4 (1) - 21/07/2020; [2020, c. 18, Sched. 6, s. 4 \(2, 3\)](#) - not in force

Harmonization

3.1 (1) This section applies,

- (a) if another jurisdiction imposes requirements with respect to an undertaking to which this Act applies; and
- (b) if the Minister considers the requirements imposed by the other jurisdiction to be equivalent to the requirements imposed under this Act. 1996, c. 27, s. 2.

Order to vary or dispense

- (2) The Minister may by order vary or dispense with a requirement imposed under this Act with respect to the undertaking if,
- (a) both jurisdictions have agreed to harmonization or substitution of requirements in relation to the undertaking; or
 - (b) there is an agreement with respect to harmonization or substitutions between the jurisdictions. 2020, c. 18, Sched. 6, s. 5 (1).

Order to impose additional requirements

(3) The Minister may by order impose requirements in addition to those imposed under this Act with respect to the undertaking if the condition set out in clause (2) (a) or (b) is satisfied and the additional requirements are being imposed to provide for harmonization or substitution. 2020, c. 18, Sched. 6, s. 5 (1).

Declaration of non-application

(3.1) The Minister may by order declare that this Act does not apply with respect to the undertaking and may make the order subject to such conditions as the Minister considers appropriate. 2020, c. 18, Sched. 6, s. 5 (1).

Notice and comment

(4) When the Minister proposes to make an order under this section, the Minister shall give adequate public notice of the proposed order and shall ensure that members of the public have an opportunity to comment on it. 1996, c. 27, s. 2; 2020, c. 18, Sched. 6, s. 5 (2).

Reasons

(5) When making an order, the Minister shall give written reasons. 1996, c. 27, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 3.1 of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 5 (3))

Harmonization, substitution

3.1 (1) This section applies if,

- (a) another jurisdiction imposes requirements with respect to an undertaking to which this Act applies or with respect to a designated project; and

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 3.1 (1) (a) of the Act is amended by striking out “with respect to an undertaking to which this Act applies or”. (See: 2020, c. 18, Sched. 6, s. 5 (4))

- (b) the Minister considers the requirements imposed by the other jurisdiction to be equivalent to the requirements imposed by this Act. 2020, c. 18, Sched. 6, s. 5 (3).

Order to vary or dispense

(2) The Minister may by order vary or dispense with a requirement imposed under this Act with respect to the undertaking or designated project if,

- (a) both jurisdictions have agreed to harmonization or substitution of requirements in relation to the undertaking or project; or
- (b) there is an agreement with respect to harmonization or substitution between the jurisdictions. 2020, c. 18, Sched. 6, s. 5 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 3.1 (2) of the Act is amended by striking out “undertaking or” wherever it appears. (See: 2020, c. 18, Sched. 6, s. 5 (5))

Order to impose additional requirements

(3) The Minister may by order impose requirements in addition to those imposed under this Act with respect to the undertaking or designated project if the condition set out in clause (2) (a) or (b) is satisfied and the additional requirements are being imposed to provide for harmonization or substitution. 2020, c. 18, Sched. 6, s. 5 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 3.1 (3) of the Act is amended by striking out “undertaking or”. (See: 2020, c. 18, Sched. 6, s. 5 (6))

Declaration of non-application

(4) The Minister may by order declare that this Act does not apply with respect to the undertaking or designated project and may make the order subject to such conditions as the Minister considers appropriate. 2020, c. 18, Sched. 6, s. 5 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 3.1 (4) of the Act is amended by striking out “undertaking or”. (See: 2020, c. 18, Sched. 6, s. 5 (7))

Notice and comment

(5) When the Minister proposes to make an order under this section, the Minister shall give adequate public notice of the proposed order and shall ensure that members of the public have an opportunity to comment on it. 2020, c. 18, Sched. 6, s. 5 (3).

Reasons

(6) When making an order, the Minister shall give written reasons. 2020, c. 18, Sched. 6, s. 5 (3).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 2 - 01/01/1997

2020, c. 18, Sched. 6, s. 5 (1, 2) - 21/07/2020; 2020, c. 18, Sched. 6, s. 5 (3-7) - not in force

Declaration

3.2 (1) With the approval of the Lieutenant Governor in Council or of such ministers of the Crown as the Lieutenant Governor in Council may designate, the Minister may by order,

- (a) declare that this Act, the regulations or a matter provided for under the Act does not apply with respect to a proponent, a class of proponents, an undertaking or a class of undertakings;
- (b) suspend or revoke the declaration;
- (c) impose conditions on the declaration; or
- (d) amend or revoke conditions imposed on the declaration,

if the Minister considers that it is in the public interest to do so having regard to the purpose of this Act and weighing it against the injury, damage or interference that might be caused to any person or property by the application of this Act to the undertaking or class. 1996, c. 27, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 3.2 (1) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 6 (1))

Declaration

(1) Subject to subsection (1.1), the Minister may by order, with the approval of the Lieutenant Governor in Council or of such ministers of the Crown as the Lieutenant Governor in Council may designate,

- (a) declare that this Act, the regulations, any provision of this Act or the regulations or any matter provided for under this Act does not apply with respect to an undertaking, class of undertakings, designated project, class of designated projects, person or class of persons;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 3.2 (1) (a) of the Act is amended by striking out “an undertaking, class of undertakings, designated project” and substituting “a designated project”. (See: 2020, c. 18, Sched. 6, s. 6 (2))

- (b) suspend or revoke the declaration;
- (c) impose conditions on the declaration; or
- (d) amend or revoke conditions imposed on the declaration. 2020, c. 18, Sched. 6, s. 6 (1).

Same

(1.1) The Minister shall make an order under subsection (1) only if the Minister considers that it is in the public interest to do so having regard to the purpose of this Act and weighing it against the injury, damage or interference that might be caused to any person or property by the application of this Act to the undertaking, class of undertakings, designated project, class of designated projects, person or class of persons. 2020, c. 18, Sched. 6, s. 6 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 3.2 (1.1) is amended by striking out “undertaking, class of undertakings”. (See: 2020, c. 18, Sched. 6, s. 6 (3))

Legislation Act, 2006, Part III

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply with respect to an order made under subsection (1). 1996, c. 27, s. 2; 2006, c. 21, Sched. F, s. 136 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 2 - 01/01/1997

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

2020, c. 18, Sched. 6, s. 6 (1-3) - not in force

Exclusion of traffic calming measures

3.3 (1) A traffic calming measure is not an undertaking for the purposes of this Act and cannot be included in the definition of a class for the purposes of this Act. 2006, c. 11, Sched. B, s. 5.

Same

(2) Sections 3.0.1 and 3.1 do not apply with respect to traffic calming measures. 2006, c. 11, Sched. B, s. 5.

Transition

(3) If an application, or part of an application, made under a provision of this Act in respect of proposed traffic calming measures is not finally determined before the day on which section 5 of Schedule B to the *Stronger City of Toronto for a Stronger Ontario Act, 2006* comes into force, the application or part thereof in respect of traffic calming measures is discontinued on that day. 2006, c. 11, Sched. B, s. 5.

Same

(4) If any process, or part of a process, in respect of proposed traffic calming measures under an approved class environmental assessment has not been completed before the day on which section 5 of Schedule B to the *Stronger City of Toronto for a Stronger Ontario Act, 2006* comes into force, the process or part thereof in respect of the proposed traffic calming measures are discontinued on that day. 2006, c. 11, Sched. B, s. 5.

Immunity

(5) No damages, amount in lieu of damages or other amount is payable by the Crown, a public body, a municipality or any other person as a result of or relating to the enactment of this section. 2006, c. 11, Sched. B, s. 5.

Definition

(6) In this section,

“traffic calming measures” means physical measures designed to control traffic speeds and to encourage driving behaviour that is appropriate to the environment. 2006, c. 11, Sched. B, s. 5.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 3.3 of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 7)

Section Amendments with date in force (d/m/y)

2006, c. 11, Sched. B, s. 5 - 01/01/2007

2020, c. 18, Sched. 6, s. 7 - not in force

The Crown

4 This Act binds the Crown. R.S.O. 1990, c. E.18, s. 4.

Non-application

4.1 Section 21.2 (power to review) of the *Statutory Powers Procedure Act* does not apply with respect to decisions made under this Act. 2020, c. 18, Sched. 6, s. 8.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 8 - 21/07/2020

Validity of decisions

4.2 A decision of the Minister or Director under this Act is not invalid solely on the ground that the decision was not made before the applicable deadline. 2020, c. 18, Sched. 6, s. 8.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 8 - 21/07/2020

Note: On a day to be named by proclamation of the Lieutenant Governor, Part II of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 20)

PART II ENVIRONMENTAL ASSESSMENTS

APPLICATION FOR APPROVAL

Approval for undertaking

5 (1) Every proponent who wishes to proceed with an undertaking shall apply to the Minister for approval to do so. 1996, c. 27, s. 3.

Application

(2) The application consists of the proposed terms of reference submitted under subsection 6 (1) and the environmental assessment subsequently submitted under subsection 6.2 (1). 1996, c. 27, s. 3.

Form, manner of application

(2.1) An application shall be submitted to the Minister in the form and manner specified by the Director. 2020, c. 18, Sched. 6, s. 9.

Prohibition

(3) No person shall proceed with an undertaking unless the Minister gives his or her approval to proceed under section 9 or the Tribunal gives its approval under section 9.1. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same

(4) No person shall proceed with an undertaking in a manner inconsistent with a condition imposed by the Minister or the Tribunal for proceeding with it. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Potential non-compliance

(5) A proponent who has received approval to proceed with an undertaking shall promptly notify the Minister if the proponent may not be able to comply with the approval as a result of a change in circumstances. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 9 - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Obligation to consult

5.1 When preparing proposed terms of reference and an environmental assessment, the proponent shall consult with such persons as may be interested. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Terms of reference

6 (1) The proponent shall give the Ministry proposed terms of reference governing the preparation of an environmental assessment for the undertaking. 1996, c. 27, s. 3.

Same

(2) The proposed terms of reference must,

- (a) indicate that the environmental assessment will be prepared in accordance with the requirements set out in subsection 6.1 (2);
- (b) indicate that the environmental assessment will be prepared in accordance with such requirements as may be prescribed for the type of undertaking the proponent wishes to proceed with; or
- (c) set out in detail the requirements for the preparation of the environmental assessment. 1996, c. 27, s. 3.

Same

(3) The proposed terms of reference must be accompanied by a description of the consultations by the proponent and the results of the consultations. 1996, c. 27, s. 3.

Public notice

(3.1) The proponent shall give public notice of the proposed terms of reference and shall do so by the prescribed deadline and in the manner required by the Director. 2000, c. 26, Sched. E, s. 2 (2).

Same

(3.2) The public notice must indicate where and when members of the public may inspect the proposed terms of reference and state that they may give their comments about the proposed terms of reference to the Ministry. It must also contain such other information as may be prescribed or as the Director may require. 2000, c. 26, Sched. E, s. 2 (2).

Notice to clerk of a municipality

(3.3) The proponent shall give the information contained in the public notice to the clerk of each municipality in which the undertaking is to be carried out and shall do so by the deadline for giving the public notice. 2000, c. 26, Sched. E, s. 2 (2).

Notice to other persons

(3.4) The proponent shall give the information contained in the public notice to such other persons as the Director may require and shall do so by the deadline for giving the public notice. 2000, c. 26, Sched. E, s. 2 (2).

Public inspection

(3.5) Any person may inspect the proposed terms of reference in the places and at the times set out in the public notice. 2000, c. 26, Sched. E, s. 2 (2).

Comments

(3.6) Any person may comment in writing on the proposed terms of reference to the Ministry and, if the person wishes the comments to be considered by the Minister in deciding whether to approve the proposed terms of reference, shall submit the comments by the prescribed deadline. 2000, c. 26, Sched. E, s. 2 (2).

Approval

(4) The Minister shall approve the proposed terms of reference, with any amendments that he or she considers necessary, if he or she is satisfied that an environmental assessment prepared in accordance with the approved terms of reference will be consistent with the purpose of this Act and the public interest. 2000, c. 26, Sched. E, s. 2 (3).

Mediation

(5) Before approving proposed terms of reference, the Minister may refer a matter in connection with them to mediation and section 8 applies with necessary modifications. 1996, c. 27, s. 3.

Deadline

(6) The Minister shall notify the proponent whether or not the proposed terms of reference are approved and shall do so by the prescribed deadline. 1996, c. 27, s. 3.

Same

(7) Different deadlines may be prescribed with respect to proposed terms of reference that are referred to mediation and with respect to those that are not. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. E, s. 2 (2, 3) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Landfilling site, municipal support required

Definitions

6.0.1 (1) In this section,

“area of settlement” has the same meaning as in subsection 1 (1) of the *Planning Act*; (“zone de peuplement”)

“landfilling site” means a waste disposal site where landfilling occurs; (“lieu d’enfouissement”)

“parcel of land” has the same meaning as in subsection 46 (1) of the *Planning Act*; (“parcelle de terrain”)

“waste disposal site” has the same meaning as in Part V of the *Environmental Protection Act*. (“lieu d’élimination des déchets”) 2020, c. 18, Sched. 6, s. 10.

Same

(2) For the purposes of this section, the following terms have the meaning assigned to them under subsection 1 (1) of the *Municipal Act, 2001*:

1. Local municipality.
2. Municipality. 2020, c. 18, Sched. 6, s. 10.

Application

(3) This section applies in respect of a proponent who wishes to proceed with an undertaking to establish a waste disposal site that,

- (a) is a landfilling site; and
- (b) is subject to this Part. 2020, c. 18, Sched. 6, s. 10.

Local municipalities whose support is required

(4) A proponent mentioned in subsection (3) shall, in accordance with subsection (5), obtain municipal support for the undertaking from each local municipality,

- (a) in which the landfilling site would be situated; and

- (b) in which there is, as of the day on which the proponent gives public notice of the proposed terms of reference under subsection 6 (3.1), a parcel of land,
 - (i) on which residential uses, other than residential uses that are ancillary to other uses, are authorized by the official plan of the municipality,
 - (ii) that is within an area of settlement, and
 - (iii) that is located within a 3.5 kilometre distance, or such other distance as may be prescribed, perpendicular at each point from the property boundary of the property on which the proposed landfilling site would be situated. 2020, c. 18, Sched. 6, s. 10.

Evidence of support

- (5) For the purposes of subsection (4), the proponent shall provide to the Ministry,
 - (a) a copy of a municipal council resolution for each local municipality in respect of which municipal support is required under subsection (4), indicating the municipality supports the undertaking to establish a waste disposal site that is a landfilling site;
 - (b) a well-marked and legible map showing the location of the landfilling site, the boundaries of each local municipality mentioned in clause (a) and markings to illustrate the characteristics of a municipality under clause (4) (b); and
 - (c) a description of the process used to identify the local municipalities whose support for the undertaking is required under subsection (4). 2020, c. 18, Sched. 6, s. 10.

Resolution

- (6) For greater certainty, a municipal council resolution described in clause (5) (a) is not a matter that falls within the waste management sphere of jurisdiction under subsection 11 (3) of the *Municipal Act, 2001*. 2020, c. 18, Sched. 6, s. 10.

Evidence to be included in environmental assessment

- (7) Subject to subsection (9), the information mentioned in subsection (5) shall be included in the environmental assessment submitted to the Ministry under subsection 6.2 (1). 2020, c. 18, Sched. 6, s. 10.

Transition, terms of reference already submitted or approved

- (8) For greater certainty, if a proponent mentioned in subsection (3) has given the Ministry proposed terms of reference under subsection 6 (1) or has received approval for a terms of reference under subsection 6 (4) before the day section 10 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force, this section applies. 2020, c. 18, Sched. 6, s. 10.

Transition, environmental assessment already submitted

- (9) If a proponent mentioned in subsection (3) has, before the day section 10 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force, already submitted an environmental assessment in respect of the undertaking and no decision has been made in respect of the application under section 9 or 9.1, the following rules apply:

1. Subsection (4) applies to the proponent and the information required under subsection (5) shall be submitted separately from the environmental assessment.
2. If the Ministry has not completed its review of the environmental assessment under section 7 before the day section 10 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force,
 - i. the Director shall not provide notice of completion under section 7.1 until the requirements set out in subsections (4) and (5) have been satisfied and the Director has provided the written confirmation described in subsection (10), and
 - ii. the deadline referred to in subsection 7 (2) does not apply to the review of the environmental assessment.
3. If the Ministry has provided a notice of completion of the review under section 7.1 before the day section 10 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force,
 - i. no decision shall be made under section 9 or 9.1 until the requirements set out in subsections (4) and (5) have been satisfied and the Director has provided the written confirmation described in subsection (10), and
 - ii. the deadlines referred to in subsections 10 (1) and (2) do not apply to the application. 2020, c. 18, Sched. 6, s. 10.

Confirmation

(10) With respect to an environmental assessment submitted by a proponent mentioned in subsection (3), until the date the Director has confirmed in writing to the proponent that the requirements set out in subsections (4) and (5) have been satisfied with respect to the undertaking,

- (a) the environmental assessment is deemed not to have been received by the Ministry under subsection 6.2 (1); and
- (b) the proponent shall not give public notice of the submission of the environmental assessment under subsection 6.3 (1). 2020, c. 18, Sched. 6, s. 10.

Exceptions

(11) This section does not apply,

- (a) in respect of a waste disposal site that is a landfilling site established by the Minister under clause 4 (1) (k) of the *Environmental Protection Act*; or
- (b) to a proponent seeking an approval under this Part if the approval is required pursuant to a regulation made under clause 176 (4) (o) of the *Environmental Protection Act* with respect to a waste disposal site that is a landfilling site. 2020, c. 18, Sched. 6, s. 10.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 10 - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Preparation of environmental assessment

6.1 (1) The proponent shall prepare an environmental assessment for an undertaking in accordance with the approved terms of reference. 1996, c. 27, s. 3.

Contents

(2) Subject to subsection (3), the environmental assessment must consist of,

- (a) a description of the purpose of the undertaking;
- (b) a description of and a statement of the rationale for,
 - (i) the undertaking,
 - (ii) the alternative methods of carrying out the undertaking, and
 - (iii) the alternatives to the undertaking;
- (c) a description of,
 - (i) the environment that will be affected or that might reasonably be expected to be affected, directly or indirectly,
 - (ii) the effects that will be caused or that might reasonably be expected to be caused to the environment, and
 - (iii) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment,

by the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking;

- (d) an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking; and
- (e) a description of any consultation about the undertaking by the proponent and the results of the consultation. 1996, c. 27, s. 3.

Exception

(3) The approved terms of reference may provide that the environmental assessment consist of information other than that required by subsection (2). 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Submission of environmental assessment

6.2 (1) The proponent shall submit an environmental assessment for an undertaking to the Ministry. 1996, c. 27, s. 3.

Amendment or withdrawal

(2) After it is submitted to the Ministry, the proponent may amend or withdraw the environmental assessment at any time before the deadline for completion of the Ministry review of the environmental assessment. 1996, c. 27, s. 3.

Same

(3) The proponent may amend or withdraw the environmental assessment after the deadline for completion of the Ministry review only upon such conditions as the Minister may by order impose. 1996, c. 27, s. 3.

Same

(4) The Minister may by order amend or revoke conditions imposed under this section. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Public notice of submission

6.3 (1) The proponent shall give public notice of the submission of the environmental assessment and shall do so by the prescribed deadline and in the manner required by the Director. 1996, c. 27, s. 3.

Same

(2) The public notice must indicate where and when members of the public may inspect the environmental assessment and state that they may give their comments about it to the Ministry. It must also contain such other information as may be prescribed or as the Director may require. 1996, c. 27, s. 3.

Notice to clerk of a municipality

(3) The proponent shall give the information contained in the public notice to the clerk of each municipality in which the undertaking is to be carried out and shall do so by the deadline for giving the public notice. 1996, c. 27, s. 3.

Notice to other persons

(4) The proponent shall give the information contained in the public notice to such other persons as the Director may require and shall do so by the deadline for giving the public notice. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Public inspection of environmental assessment

6.4 (1) Any person may inspect the environmental assessment in the places and at the times set out in the public notice. 1996, c. 27, s. 3.

Comments

(2) Any person may comment in writing on the undertaking or on the environmental assessment to the Ministry and, if the person wishes the comments to be considered during the preparation of the Ministry review, shall submit the comments by the prescribed deadline. 1996, c. 27, s. 3; 2000, c. 26, Sched. E, s. 2 (4).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. E, s. 2 (4) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Information to be made available

6.5 In addition to complying with any requirements under this Act with respect to public notice, a proponent shall make available such information as the Director may require with respect to the application and the undertaking in such form and manner as the Director may require. 2020, c. 18, Sched. 6, s. 11.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 11 - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

MINISTRY REVIEW

Ministry review of environmental assessment

7 (1) The Ministry shall prepare a review of the environmental assessment and shall take into account any comments received from members of the public by the deadline prescribed under subsection 6.4 (2). 1996, c. 27, s. 3.

Completion date

(2) The review must be completed by the prescribed deadline. 1996, c. 27, s. 3.

Extension

(3) The deadline for completing the review may be extended by the Director for a prescribed reason or for an unusual, unexpected or urgent reason that the Director considers compelling. The Director shall notify such persons as he or she considers appropriate if the deadline is extended. 2020, c. 18, Sched. 6, s. 12 (1).

Deficient environmental assessment

(4) If the Director considers that the environmental assessment is deficient in relation to the approved terms of reference and the purpose of the Act, the Director may give the proponent a statement describing the deficiencies and shall do so at least 14 days before the deadline for completing the review. 1996, c. 27, s. 3.

Remedying deficiencies

(5) The proponent may take such steps as are necessary to remedy the deficiencies described in the statement and shall do so within seven days after receiving the statement or such other period as the Director may specify in the statement given under subsection (4). 1996, c. 27, s. 3; 2020, c. 18, Sched. 6, s. 12 (2).

Rejection of environmental assessment

(6) The Minister may reject the environmental assessment if the Director is not satisfied that the deficiencies have been remedied within the seven-day period or such other period as the Director may specify in the statement given under subsection (4). 1996, c. 27, s. 3; 2020, c. 18, Sched. 6, s. 12 (3).

Notice of rejection

(7) The Director shall notify the proponent, the clerk of each municipality in which the undertaking is to be carried out and the public if the Minister rejects the environmental assessment, and shall do so before the deadline for completing the review. 1996, c. 27, s. 3; 2000, c. 26, Sched. E, s. 2 (5).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. E, s. 2 (5) - 06/12/2000

2020, c. 18, Sched. 6, s. 12 (1-3) - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Notice of completion of Ministry review

7.1 (1) The Director shall notify the proponent and the clerk of each municipality in which the undertaking is to be carried out when the Ministry review is completed. 1996, c. 27, s. 3.

Public notice

(2) The Director shall give public notice of the completion of the review in the manner the Director considers suitable. 1996, c. 27, s. 3.

Same

(3) The public notice must indicate where and when members of the public may inspect the review and state that they may give their comments about it to the Ministry. It must also contain such other information as may be prescribed. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Public inspection of Ministry review

7.2 (1) Any person may inspect the Ministry review in the places and at the times set out in the public notice. 1996, c. 27, s. 3.

Comments

(2) Any person may comment in writing on the undertaking, the environmental assessment and the review to the Ministry and, if the person wishes the comments to be considered when the Minister decides the proponent's application, shall submit the comments by the prescribed deadline. 1996, c. 27, s. 3.

Request for hearing

(3) Any person may request that the Minister refer the proponent's application or a matter that relates to it to the Tribunal for hearing and decision. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same

(4) A request under subsection (3) must be made in writing to the Ministry before the deadline for submitting comments on the review. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

DECISIONS ON THE APPLICATION

Mediation

8 (1) Before the application is decided, the Minister may appoint one or more persons to act as mediators who shall endeavour to resolve such matters as may be identified by the Minister as being in dispute or of concern in connection with the undertaking. 1996, c. 27, s. 3.

Same

(2) The Minister may appoint the Tribunal to act as mediator. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Notice of mediation

(3) The Minister shall notify the following persons of his or her decision to refer certain matters to mediation and shall give them written reasons for the decision:

1. The proponent.
2. The clerk of each municipality in which the undertaking is to be carried out.
3. Every person who submitted comments under subsection 6.4 (2) or 7.2 (2).
4. Such other persons as the Minister considers appropriate. 1996, c. 27, s. 3.

Parties

(4) The parties to the mediation are the proponent and such other persons as the Minister may identify. Instead of identifying parties by name, the Minister may determine the manner in which they are to be identified and invited to participate. 1996, c. 27, s. 3.

Closed proceedings

(5) Unless the mediators decide otherwise, the mediation is not open to the public. 1996, c. 27, s. 3.

Report

(6) The mediators shall give the Minister a written report on the conduct and results of the mediation. 1996, c. 27, s. 3.

Deadline

(7) The mediators shall give their report to the Minister within 60 days after their appointment or by such earlier deadline as the Minister may specify. 1996, c. 27, s. 3.

Confidentiality

(8) No person except the Minister shall make public any portion of the report. 1996, c. 27, s. 3.

Disclosure

(9) The Minister shall make the report public promptly after the Minister makes his or her decision under section 9 or the decision of the Tribunal under section 9.1 becomes effective. The Minister may make all or part of the report public before then only with the consent of the parties to the mediation. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Fees and expenses

(10) The proponent shall pay the fees and reasonable expenses of the mediators. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Decision by Minister

9 (1) The Minister may decide an application and, with the approval of the Lieutenant Governor in Council or of such ministers of the Crown as the Lieutenant Governor in Council may designate, the Minister may,

- (a) give approval to proceed with the undertaking;
- (b) give approval to proceed with the undertaking subject to such conditions as the Minister considers necessary to carry out the purpose of this Act and in particular requiring or specifying,
 - (i) the methods and phasing of the carrying out of the undertaking,
 - (ii) the works or actions to prevent, mitigate or remedy effects of the undertaking on the environment,
 - (iii) such research, investigations, studies and monitoring programs related to the undertaking, and reports thereof, as the Minister considers necessary,
 - (iv) such changes in the undertaking as the Minister considers necessary,
- (iv.1) a process to be followed in respect of any changes to the undertaking that the proponent may wish to make after the approval is given, which process may include granting authority to the Director or Minister to,
 - (A) require the proponent to engage in additional consultation, and to provide additional information, in respect of proposed changes, and
 - (B) give approval, attach conditions to the approval or refuse to give approval to proceed with the changes,
- (iv.2) that the process referred to in subclause (iv.1) is only available for specified changes or classes of changes to the undertaking,
 - (v) that the proponent enter into one or more agreements related to the undertaking with any person with respect to such matters as the Minister considers necessary,
 - (vi) that the proponent comply with all or any of the provisions of the environmental assessment that may be incorporated by reference in the approval,
 - (vii) the period of time during which the undertaking or any part thereof shall be commenced or carried out; or
- (c) refuse to give approval to proceed with the undertaking. 1996, c. 27, s. 3; 2020, c. 18, Sched. 6, s. 13 (1).

Subs. (1) (b) (iv.1), process to make changes

(1.1) A process mentioned in subclause (1) (b) (iv.1) may be set out in an approval or incorporated by reference into the approval. 2020, c. 18, Sched. 6, s. 13 (2).

Subs. (1) (b) (iv.1), application

(1.2) Subclause (1) (b) (iv.1) applies in respect of approval given under subsection (1) either before or after the day section 13 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force. 2020, c. 18, Sched. 6, s. 13 (2).

Basis for decision

(2) The Minister shall consider the following matters when deciding an application:

1. The purpose of the Act.
2. The approved terms of reference for the environmental assessment.

3. The environmental assessment.
4. The Ministry review of the environmental assessment.
5. The comments submitted under subsections 6.4 (2) and 7.2 (2).
6. The mediators' report, if any, given to the Minister under section 8.
7. Such other matters as the Minister considers relevant to the application. 1996, c. 27, s. 3.

Notice to proponent

(3) The Minister shall notify the proponent of his or her decision and shall give the proponent written reasons for it. 1996, c. 27, s. 3.

Notice to others

(4) The Minister shall notify every person who submitted comments to the Ministry under subsection 7.2 (2) of his or her decision. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 13 (1, 2) - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Referral to Tribunal

9.1 (1) The Minister may refer an application to the Tribunal for a decision. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Powers of the Tribunal

(2) The Tribunal may make any decision the Minister is permitted to make under subsection 9 (1). 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Basis for decision

(3) The Tribunal shall consider the following things when deciding an application:

1. The purpose of the Act.
2. The approved terms of reference for the environmental assessment.
3. The environmental assessment.
4. The Ministry review of the environmental assessment.
5. The comments submitted under subsections 6.4 (2) and 7.2 (2).
6. If a mediators' report has been given to the Minister under section 8, any portion of the report that has been made public. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same

(4) The decision of the Tribunal must be consistent with the approved terms of reference for the environmental assessment. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Deadline

(5) The Tribunal shall make its decision by the deadline the Minister specifies or by such later date as the Minister may permit if he or she considers that there is a sufficient reason (which is unusual, urgent or compassionate) for doing so. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Referral to Tribunal of part of a decision

9.2 (1) The Minister may refer to the Tribunal for hearing and decision a matter that relates to an application. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Restrictions

(2) The Minister may give such directions or impose such conditions on the referral as the Minister considers appropriate and may amend the referral. 1996, c. 27, s. 3.

Proposed decision

(3) The Minister shall inform the Tribunal of decisions that the Minister proposes to make on matters not referred to the Tribunal in connection with the application. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Notice of referral

(4) The Minister shall give notice of the referral to the proponent and to every person who submitted comments to the Ministry under subsection 7.2 (2) and shall give them the information given to the Tribunal under subsection (3). 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Basis for decision

(5) The Tribunal shall observe any directions given and conditions imposed by the Minister when referring the matter to the Tribunal and shall consider the following things to the extent that the Tribunal considers them relevant:

1. The purpose of the Act.
2. The approved terms of reference for the environmental assessment.
3. The Ministry review of the environmental assessment.
4. The comments submitted under subsections 6.4 (2) and 7.2 (2).
5. If a mediators' report has been given to the Minister under section 8, any portion of the report that has been made public.
6. The decisions the Minister proposes to make on matters not referred to the Tribunal in connection with the application. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Deadline for deciding

(6) The Tribunal shall make its decision by the deadline the Minister specifies or by such later date as the Minister may permit if he or she considers that there is a sufficient reason (which is unusual, urgent or compassionate) for doing so. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Request for referral to Tribunal

9.3 (1) This section applies if under subsection 7.2 (3) a person requests the Minister to refer an application or a matter that relates to one to the Tribunal for hearing and decision. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Referral of application

(2) If referral of the application is requested, the Minister shall refer the application to the Tribunal under section 9.1 unless in his or her absolute discretion,

- (a) the Minister considers the request to be frivolous or vexatious;
- (b) the Minister considers a hearing to be unnecessary; or
- (c) the Minister considers that a hearing may cause undue delay in determining the application. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same, related matter

(3) If referral of a matter that relates to the application is requested, the Minister shall refer the matter to the Tribunal under section 9.2 except in the circumstances described in subsection (2). 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Referral in part

(4) Despite subsection (2) or (3), if referral of an application or of matters relating to the application is requested but the Minister considers a hearing to be appropriate in respect of only some matters, the Minister shall refer those matters to the Tribunal under section 9.2. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Deadline, Minister's decisions

10 (1) Once the deadline has passed for submitting comments on the Ministry review of an environmental assessment, the Minister shall determine by the prescribed deadline whether to refer a matter in connection with the application to mediation or to the Tribunal under section 9.2. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same

(2) By the prescribed deadline, the Minister shall decide the application under section 9 or refer it to the Tribunal for a decision under section 9.1. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Different deadlines

(3) For the purpose of subsection (2), different deadlines may be prescribed for applications in which a matter is referred,

(a) to mediation; or

(b) to the Tribunal under section 9.2,

and for those in which no referral is made. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

(4) REPEALED: 2020, c. 18, Sched. 6, s. 14.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 14 - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Referral to other tribunal, entity

11 (1) The Minister may refer to a tribunal (other than the Environmental Review Tribunal) or an entity for decision a matter that relates to an application if he or she considers it appropriate in the circumstances. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (3).

Deadline for referring

(2) The Minister shall make any decision to refer a matter to the tribunal or entity by the deadline by which the application must otherwise be decided. 1996, c. 27, s. 3.

Restrictions

(3) The Minister may give such directions or impose such conditions on the referral as the Minister considers appropriate and may direct that the matter be decided without a hearing, whether or not a hearing on the matter is otherwise required. 1996, c. 27, s. 3.

Same

(4) If the Minister refers a matter under this section, the Minister shall refer it to the tribunal or entity, if any, that is authorized under another Act to decide such matters. However, the Minister is not required to select that tribunal or entity if he or she has a reason not to. 1996, c. 27, s. 3.

Amendment

(5) The Minister may amend a referral to the tribunal or entity. 1996, c. 27, s. 3.

Deemed decision

(6) A decision of the tribunal or entity under this section shall be deemed to be a decision of the Minister. 1996, c. 27, s. 3.

Referral by Tribunal

(7) The Tribunal may refer to another tribunal or entity for decision a matter that relates to an application and subsections (1) to (6) apply with necessary modifications with respect to the referral. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (4).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (3, 4) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Deferral of part of a decision

11.1 (1) The Minister may defer deciding a matter that relates to an application if the Minister considers it appropriate to do so because the matter is being considered in another forum or for scientific, technical or other reasons. 1996, c. 27, s. 3.

Same, Tribunal

(2) The Tribunal may defer deciding a matter that relates to an application if the Tribunal considers it appropriate to do so because the matter is being considered in another forum or for scientific, technical or other reasons. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Deadline

(3) The Minister or the Tribunal shall make any decision to defer deciding a matter by the deadline by which the application must otherwise be decided. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Notice of deferral

(4) The Minister or the Tribunal shall give notice of the deferral to the proponent and to every person who submitted comments to the Ministry under subsection 7.2 (2). 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Reasons

(5) The Minister or the Tribunal shall give written reasons for a deferral, indicating why the deferral is appropriate in the circumstances. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Review of Tribunal decision

11.2 (1) The Minister may review a decision of the Tribunal under section 9.1 and may make an order or give a notice described in subsection (2) within 28 days after he or she receives a copy of the decision or within such longer period as the Minister may determine within that 28-day period. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same; s. 9.2

(1.1) The Minister may review a decision of the Tribunal under section 9.2 and may make an order or give a notice described in subsection (2) at any time before the Minister decides the application under section 9. 2000, c. 26, Sched. E, s. 2 (6).

Order

(2) With the approval of the Lieutenant Governor in Council or such ministers of the Crown as the Lieutenant Governor in Council may designate, the Minister may,

- (a) by order, vary the decision of the Tribunal;
- (b) by order, substitute his or her decision for the decision of the Tribunal; or
- (c) by a notice to the Tribunal,
 - (i) require the Tribunal to hold a new hearing respecting all or part of the application and reconsider its decision, if the notice is given under subsection (1), or
 - (ii) require the Tribunal to hold a new hearing respecting all or part of the matter referred to the Tribunal under section 9.2 and reconsider its decision, if the notice is given under subsection (1.1). 1996, c. 27, s. 3; 2000, c. 26, Sched. E, s. 2 (7); 2000, c. 26, Sched. F, s. 11 (6).

Same

(2.1) If the Minister reviews under subsection (1) a decision of the Tribunal made under section 9.1 and then, with the approval of the Lieutenant Governor in Council or of such ministers of the Crown as the Lieutenant Governor in Council may designate, makes an order under clause (2) (a) or (b), the varied or substituted decision is deemed to be the decision made by the Minister, with the necessary approval, under section 9. 2020, c. 18, Sched. 6, s. 15.

Notice of order, etc.

- (3) The Minister shall notify the persons who were given a copy of the Tribunal's decision,
- (a) that the Minister has made an order or given a notice described in subsection (2); or
 - (b) that the Minister intends to do so within the period specified in the notice. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Copy of order, etc.

(4) The Minister shall give a copy of his or her order or notice under subsection (2), together with the reasons for it, to the persons who were given a copy of the Tribunal's decision. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. E, s. 2 (6, 7) - 06/12/2000; 2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 15 - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

When Tribunal decision is effective

11.3 A decision of the Tribunal is effective only after the expiry of the period under section 11.2 during which the Minister may review it and make an order or give a notice in respect of it. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 20 - not in force

Reconsideration of decisions

11.4 (1) If there is a change in circumstances or new information concerning an application and if the Minister considers it appropriate to do so, he or she may reconsider an approval given by the Minister or the Tribunal to proceed with an undertaking. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same

(2) The Minister may request the Tribunal to determine whether it is appropriate to reconsider an approval. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Same

(3) The Minister may request the Tribunal to reconsider an approval given by the Minister or the Tribunal. 1996, c. 27, s. 3; 2000, c. 26, Sched. F, s. 11 (6).

Minister may require plans, etc.

(3.1) For the purposes of making a decision under this section, the Minister or the Tribunal may, by order, require the proponent of the undertaking to provide plans, specifications, technical reports or other information and to carry out and report on tests or experiments relating to the undertaking. 2019, c. 9, Sched. 6, s. 2 (1); 2020, c. 18, Sched. 6, s. 16 (1).

Amendment, revocation

(4) Where the Minister or the Tribunal reconsiders an approval under this section, that approval may be amended or revoked. 2019, c. 9, Sched. 6, s. 2 (2).

Rules, etc.

(4.1) A decision under this section shall be made in accordance with any rules and subject to any restrictions as may be prescribed. 2019, c. 9, Sched. 6, s. 2 (2).

(5) REPEALED: 2020, c. 18, Sched. 6, s. 16 (2).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2019, c. 9, Sched. 6, s. 2 (1, 2) - 06/06/2019

2020, c. 18, Sched. 6, s. 16 (1, 2) - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 18, Sched. 6, s. 17)

Expiry of approval

Application of section

11.5 (1) Subject to subsection (5), this section applies in respect of an approval to proceed with an undertaking if,

- (a) approval has been given under this Part or a predecessor to this Part; and
- (b) the approval does not specify a period of time following the giving of the approval after which the approval expires or a date after which a proponent cannot proceed under the approval. 2020, c. 18, Sched. 6, s. 17.

Expiry

(2) If the undertaking has not been substantially commenced by the 10th anniversary of the day approval to proceed with the undertaking was given under this Act or by the end of any extension to that period granted by the Minister under subsection (3), the approval expires on the later of,

- (a) the 10th anniversary or the end of the extended period, as the case may be; or
- (b) the day section 17 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force. 2020, c. 18, Sched. 6, s. 17.

Extension

(3) The Minister may, by notice to the proponent, grant an extension of the period within which an undertaking is to be substantially commenced beyond the 10th anniversary of the day approval to proceed with the undertaking was given and may grant such an extension subject to any conditions specified in the notice. 2020, c. 18, Sched. 6, s. 17.

Same

(4) An extension under subsection (3) may be granted at any time, including after the 10th anniversary of the approval being given has passed. 2020, c. 18, Sched. 6, s. 17.

Exception, regulations

(5) The Minister may make regulations exempting undertakings from this section. 2020, c. 18, Sched. 6, s. 17.

Minister may include date

(6) If an undertaking is exempted from this section by a regulation under subsection (5), the Minister may amend the approval to proceed with that undertaking to include a date on which the approval will expire. 2020, c. 18, Sched. 6, s. 17.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 17, 20 - not in force

OTHER MATTERS

Proposed change to an undertaking

12 If a proponent wishes to change an undertaking after receiving approval to proceed with it, other than a change in the undertaking that is addressed in a condition mentioned in subclause 9 (1) (b) (iv.1), the proposed change to the undertaking shall be deemed to be an undertaking for the purposes of this Act. 2020, c. 18, Sched. 6, s. 18.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 18 - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Replacement of environmental assessment

12.1 (1) A proponent may submit a second environmental assessment to replace an environmental assessment withdrawn by the proponent or rejected by the Minister. 1996, c. 27, s. 3.

Same

(2) The second environmental assessment must be prepared in accordance with the approved terms of reference. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Activities permitted before approval

12.2 (1) Before a proponent receives approval to proceed with an undertaking, a person may,

- (a) take any action in connection with the undertaking that may be necessary to comply with this Act;
- (b) acquire property or rights in property in connection with the undertaking;
- (c) prepare a feasibility study and engage in research in connection with the undertaking;
- (d) establish a reserve fund or another financing mechanism in connection with the undertaking. 1996, c. 27, s. 3.

Restriction on issuing certain documents

(2) No person shall issue a document evidencing that an authorization required at law to proceed with the undertaking has been given until the proponent receives approval under this Act to proceed with the undertaking. 1996, c. 27, s. 3.

Exception

(3) Despite subsection (2), a document described in that subsection may be issued with respect to an activity permitted by subsection (1) before the proponent receives the approval. 1996, c. 27, s. 3.

Restriction on provincial funding

(4) The Crown or a Crown agency shall not give a loan, grant, subsidy or guarantee with respect to the undertaking until the proponent receives approval to proceed with the undertaking. 1996, c. 27, s. 3; 2020, c. 18, Sched. 6, s. 19 (1).

Exception

(5) Despite subsection (4), a loan, grant, subsidy or guarantee described in that subsection may be given with respect to an activity permitted by subsection (1) before the proponent receives the approval. 1996, c. 27, s. 3; 2020, c. 18, Sched. 6, s. 19 (2).

Prohibition following approval

(6) No person shall issue a document described in subsection (2) or give a loan, grant, subsidy or guarantee described in subsection (4) with respect to an undertaking if it would be inconsistent with a condition imposed upon the approval to proceed with the undertaking. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 19 (1, 2) - 21/07/2020; 2020, c. 18, Sched. 6, s. 20 - not in force

Proceedings under other Acts

12.3 An approval to proceed with an undertaking does not preclude a proceeding for a contravention of the *Environmental Protection Act* or the *Ontario Water Resources Act* or a regulation made under either Act. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 20 - not in force

Transition

12.4 (1) Subject to subsection (4), this Part, as it read immediately before the coming into force of section 3 of the *Environmental Assessment and Consultation Improvement Act, 1996*, continues to apply with respect to the following:

1. An environmental assessment submitted before the coming into force of section 3 of that Act.
2. Subject to subsection (2), an environmental assessment submitted within one year after section 3 of that Act comes into force. 1996, c. 27, s. 3; 2019, c. 9, Sched. 6, s. 3 (1).

Election

(2) A proponent who wishes the predecessor Part to apply shall notify the Ministry in writing when submitting the environmental assessment. 1996, c. 27, s. 3.

Same

(3) Despite subsection (1), the Minister may by order direct that all or any portion of this Part or Part II.1, as they read after section 3 of the *Environmental Assessment and Consultation Improvement Act, 1996* comes into force, apply with respect to an environmental assessment described in subsection (1). 1996, c. 27, s. 3.

Application of s. 11.4

(4) Despite subsection (1), a notification given under subsection (2) or any order made under subsection (3), section 11.4 applies in respect of an environmental assessment to which all or part of the predecessor Part applied and such an environmental assessment is deemed to be an application for the purpose of section 11.4. 2019, c. 9, Sched. 6, s. 3 (2).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2019, c. 9, Sched. 6, s. 3 (1, 2) - 06/06/2019

2020, c. 18, Sched. 6, s. 20 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, Part II.1 of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 26)

PART II.1 CLASS ENVIRONMENTAL ASSESSMENTS

No applications

13 On and after the day the *COVID-19 Economic Recovery Act, 2020* receives Royal Assent, no application for approval of a class environmental assessment shall be submitted and any application in respect of which no approval has been given under this Part before that day shall be terminated. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020, 2020, c. 18, Sched. 6, s. 26 - not in force

13.1 REPEALED: 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020

13.2 REPEALED: 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2001, c. 9, Sched. G, s. 3 (5) - 29/06/2001

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020

Definition, change to undertaking

14 In this Part,

“change to an undertaking” means a change to an undertaking that is proposed after the undertaking is authorized to proceed under an approved class environmental assessment and is provided for in the approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2019, c. 9, Sched. 6, s. 4 - 06/06/2019

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Application of Part

15 Sections 15.1 to 17 apply in respect of undertakings to which one of the following approved class environmental assessments, as amended or renamed from time to time, applies:

1. GO Transit Class Environmental Assessment Document approved by the Lieutenant Governor in Council on December 13, 1995 under Order in Council 2316/1995.
2. Class Environmental Assessment for Provincial Transportation Facilities approved by the Lieutenant Governor in Council on October 6, 1999 under Order in Council 1653/1999.
3. Municipal Class Environmental Assessment approved by the Lieutenant Governor in Council on October 4, 2000 under Order in Council 1923/2000.
4. Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects approved by the Lieutenant Governor in Council on December 11, 2002 under Order in Council 2211/2002.
5. Class Environmental Assessment for Remedial Flood and Erosion Control Projects approved by the Lieutenant Governor in Council on June 26, 2002 under Order in Council 1381/2002.
6. Class Environmental Assessment Process for Management Board Secretariat and Ontario Realty Corporation approved by the Lieutenant Governor in Council on April 28, 2004 under Order in Council 913/2004.
7. Class Environmental Assessment for Provincial Parks and Conservation Reserves approved by the Lieutenant Governor in Council on September 23, 2004 under Order in Council 1900/2004.
8. Class Environmental Assessment for Waterpower Projects approved by the Lieutenant Governor in Council on September 24, 2008 under Order in Council 1623/2008.
9. Class Environmental Assessment for Activities of the Ministry of Northern Development and Mines under the Mining Act approved by the Lieutenant Governor in Council on December 12, 2012 under Order in Council 1952/2012.
10. Class Environmental Assessment for Minor Transmission Facilities of Hydro One approved by the Lieutenant Governor in Council on November 16, 2016 under Order in Council 1726/2016. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Director to receive certain notices

15.1 (1) The proponent of an undertaking referred to in section 15 who issues a notice of completion or a notice of addendum under an approved class environmental assessment shall submit a copy of the notice to the Director in the manner specified by the Director. 2020, c. 18, Sched. 6, s. 21 (1).

Same, transition

(2) If a notice of completion or notice of addendum is issued under an approved class environmental assessment during the 30 days before the day subsection 21 (1) of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* came into force, the copy of the notice that is required to be submitted to the Director under subsection (1) shall be submitted no later than 5 days following the day that section came into force. 2020, c. 18, Sched. 6, s. 21 (1).

Extension of comment period

(3) If a proponent of an undertaking referred to in section 15 extends the comment period provided for in a notice of completion or a notice of addendum in accordance with the approved class environmental assessment, the proponent shall give the Director notice of the extension. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Prohibitions, proceeding with undertaking

15.1.1 (1) No person shall proceed with an undertaking referred to in section 15 unless the person does so in accordance with the approved class environmental assessment and with subsections (5) to (9). The prohibitions in subsections 5 (3) and (4) do not apply with respect to such an undertaking. 2020, c. 18, Sched. 6, s. 21 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 15.1.1 (1) of the Act is amended by striking out “The prohibitions in subsections 5 (3) and (4) do not apply with respect to such an undertaking” at the end. (See: 2020, c. 18, Sched. 6, s. 21 (2))

Exception

(2) Despite subsection (1), a proponent of an undertaking referred to in section 15 may apply under subsection 5 (1) to the Minister for approval to proceed with the undertaking under Part II. Subsection (1) and subsections (5) to (9) do not apply with respect to such an undertaking and the prohibitions in subsections 5 (3) and (4) apply. 2020, c. 18, Sched. 6, s. 21 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 15.1.1 (2) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 21 (3))

Exception

(2) Despite subsection (1), a proponent of an undertaking referred to in section 15 may apply under subsection 17.2 (1) to the Minister for approval to proceed with the undertaking as a Part II.3 project. On and after the day the proponent applies under subsection 17.2 (1), the undertaking shall be deemed to be a Part II.3 project and Part II.3 applies in respect of it instead of this section. 2020, c. 18, Sched. 6, s. 21 (3).

Same

(3) Subsection (2) ceases to apply if the application for approval to proceed with the undertaking under Part II is withdrawn by the proponent. 2020, c. 18, Sched. 6, s. 21 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 15.1.1 (3) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 21 (3))

Same

(3) Subsection (2) ceases to apply if the application for approval to proceed with the undertaking as a Part II.3 project is withdrawn by the proponent. 2020, c. 18, Sched. 6, s. 21 (3).

Same

(4) Despite subsection (1), a proponent shall apply to the Minister for approval to proceed with an undertaking referred to in section 15 in accordance with Part II if the Minister makes an order under subsection 16 (1) requiring the proponent to comply with Part II. Subsection (1) and subsections (5) to (9) do not apply with respect to such an undertaking and the prohibitions in subsections 5 (3) and (4) apply. 2020, c. 18, Sched. 6, s. 21 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 15.1.1 (4) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 21 (4))

Same

(4) Despite subsection (1), if the Minister makes an order under subsection 16 (1) declaring an undertaking referred to in section 15 to be a Part II.3 project for the purposes of this Act, subsection (1) ceases to apply with respect to the project and Part II.3 applies. 2020, c. 18, Sched. 6, s. 21 (4).

Limitation on proceeding

(5) Despite anything in an approved class environmental assessment, no person shall proceed with an undertaking referred to in section 15 until at least 30 days, or such other number of days as may be prescribed, after the end of the comment period provided for in a notice of completion issued under the approved class environmental assessment, as that comment period may be extended in accordance with the approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Same

(6) Despite subsection (5), if a notice of a proposed order is given to a proponent by the Director under subsection 16.1 (2), subsection (5) does not apply and no person shall proceed with the undertaking until at least 30 days, or such other number of days as may be prescribed, after the day the notice of the proposed order was given, subject to subsection (7). 2020, c. 18, Sched. 6, s. 21 (1).

Same

(7) If a notice of a proposed order includes a request for information made by the Director under subsection 16.1 (4), subsections (5) and (6) do not apply and the proponent shall not proceed with the undertaking until,

- (a) if the proponent provides all the requested information on or before the deadline specified in the notice of a proposed order and receives a notice of satisfactory response from the Director under clause 16.1 (6) (a), at least 30 days, or such other number of days as may be prescribed, after the Director gives the proponent a notice of satisfactory response under clause 16.1 (6) (a); or
- (b) if the proponent fails to provide all the requested information on or before the deadline specified in the notice of a proposed order and receives a notice of unsatisfactory response from the Director under clause 16.1 (7) (a), at least 30 days, or such other number of days as may be prescribed, that follows the comment period provided for in,
 - (i) a new notice of completion that the proponent is required to issue under clause 16.1 (7) (c), or
 - (ii) any further notice of completion that may be required of the proponent under subsection 16.1 (9), until such time as the Director is satisfied that all the information requested in the notice of the proposed order has been provided by the proponent in the notice of completion. 2020, c. 18, Sched. 6, s. 21 (1).

Same, transition

(8) For greater certainty, the limitations in subsections (5) to (7) apply with respect to an undertaking referred to in section 15 where the notice of completion was issued under the approved class environmental assessment during the 30 days before the day subsection 21 (1) of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* came into force and a copy of the notice is required to be submitted to the Director under subsection 15.1 (2). 2020, c. 18, Sched. 6, s. 21 (1).

Same, application for s. 16 order

(9) Despite anything in an approved class environmental assessment, if a request is made under subsection 16 (6) for the Minister to make an order under section 16 in respect of an undertaking that is proceeding under the approved class environmental assessment, no person shall proceed with the undertaking while the Minister's decision with respect to the request is still pending. 2020, c. 18, Sched. 6, s. 21 (1).

Change to undertaking

(10) This section applies with necessary modifications to a change to an undertaking that has been authorized to proceed in accordance with an approved class environmental assessment and, for the purposes of the application of subsections (5) to (9) to such a change, any reference in those subsections to a notice of completion shall be deemed to be a reference to a notice of addendum issued with respect to the change to the undertaking under the approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 21 (2-4), 26 - not in force

Activities permitted before authorization to proceed

15.1.2 (1) Before a proponent is authorized to proceed with an undertaking referred to in section 15, a person may,

- (a) take any action in connection with the undertaking that may be necessary to comply with this Act;
- (b) acquire property or rights in property in connection with the undertaking;
- (c) prepare a feasibility study and engage in research in connection with the undertaking; or
- (d) establish a reserve fund or another financing mechanism in connection with the undertaking. 2020, c. 18, Sched. 6, s. 21 (1).

Restriction on issuing certain documents

(2) No person shall issue a document evidencing that an authorization required at law to proceed with the undertaking has been given until the proponent is authorized to proceed with the undertaking under an approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Exception

(3) Despite subsection (2), a document described in that subsection may be issued with respect to an activity permitted by subsection (1) before the proponent is authorized to proceed with the undertaking under an approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Restriction on provincial funding

(4) The Crown or a Crown agency shall not give a loan, grant, subsidy or guarantee with respect to the undertaking until the proponent is authorized to proceed with the undertaking under an approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Exception

(5) Despite subsection (4), a loan, grant, subsidy or guarantee described in that subsection may be given with respect to an activity permitted by subsection (1) before the proponent is authorized to proceed with the undertaking under an approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Prohibition following approval

(6) No person shall issue a document described in subsection (2) or give a loan, grant, subsidy or guarantee described in subsection (4) with respect to an undertaking if it would be inconsistent with the approved class environmental assessment. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Reconsideration of approval

15.1.3 (1) If there is a change in circumstances or new information concerning the approval of a class environmental assessment listed in section 15 and if the Minister considers it appropriate to do so, he or she may reconsider the approval under this section. 2020, c. 18, Sched. 6, s. 21 (1).

Same

(2) The Minister may request the Tribunal to determine whether it is appropriate to reconsider the approval. 2020, c. 18, Sched. 6, s. 21 (1).

Same

(3) The Minister may refer the reconsideration of the approval of a class environmental assessment under this section to the Tribunal and, in that case, the Tribunal may conduct the reconsideration instead of the Minister. 2020, c. 18, Sched. 6, s. 21 (1).

Minister may require plans, etc.

(4) For the purposes of making a decision under this section, the Minister or the Tribunal may, by order, require a person given approval in respect of a class environmental assessment to provide plans, specifications, technical reports or other information and to carry out and report on tests or experiments. 2020, c. 18, Sched. 6, s. 21 (1).

Amendment, revocation

(5) After reconsidering an approval under this section, the Minister or Tribunal may amend or revoke the approval. 2020, c. 18, Sched. 6, s. 21 (1).

Rules, etc.

(6) A decision under this section shall be made in accordance with any rules and subject to any restrictions as may be prescribed. 2020, c. 18, Sched. 6, s. 21 (1).

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 21 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 18, Sched. 6, s. 22)

Amendment, etc. by regulation

15.1.4 The Lieutenant Governor in Council may by regulation amend or revoke an approval of a class environmental assessment or amend an approved class environmental assessment. 2020, c. 18, Sched. 6, s. 22.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 22, 26 - not in force

Eligible proponents

15.2 (1) This section applies if an approved class environmental assessment provides that only certain proponents or classes of proponents may proceed with undertakings in accordance with it. 1996, c. 27, s. 3.

Regulations

(2) The Lieutenant Governor in Council may, by regulation, authorize additional proponents or classes of proponents to proceed with undertakings in accordance with a specified class environmental assessment, may impose conditions on the proponents' doing so and may vary the class environmental assessment as it applies to those proponents. 1996, c. 27, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 26 - not in force

Non-application of Act, certain undertakings

15.3 (1) A class environmental assessment as it is approved or amended may provide that this Act does not apply with respect to one or more undertakings within the class, including as a result of the evaluation of screening criteria specified within the class environmental assessment. 2019, c. 9, Sched. 6, s. 5.

Exemption of undertakings

(2) An undertaking provided for in subsection (1) is exempt from this Act. 2019, c. 9, Sched. 6, s. 5.

Specific exemptions that are based on meeting criteria

(3) Where a proponent determines that it is not required to conduct further assessment or public consultation in respect of an undertaking based on evaluation of screening criteria specified within one of the following class environmental assessments, as amended or re-named from time to time before May 1, 2019, that undertaking is exempt from this Act as long as any conditions specified within the class environmental assessment are complied with:

1. Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects approved by the Lieutenant Governor in Council on December 11, 2002 under Order in Council 2211/2002.
2. Class Environmental Assessment Process for Management Board Secretariat and Ontario Realty Corporation approved by the Lieutenant Governor in Council on April 28, 2004 under Order in Council 913/2004.
3. Class Environmental Assessment for Provincial Parks and Conservation Reserves approved by the Lieutenant Governor in Council on September 23, 2004 under Order in Council 1900/2004.
4. Class Environmental Assessment for Activities of the Ministry of Northern Development and Mines under the Mining Act approved by the Lieutenant Governor in Council on December 12, 2012 under Order in Council 1952/2012.
5. Class Environmental Assessment for Minor Transmission Facilities of Hydro One approved by the Lieutenant Governor in Council on November 16, 2016 under Order in Council 1726/2016. 2019, c. 9, Sched. 6, s. 5; 2020, c. 18, Sched. 6, s. 23 (1).

Exemptions, specific undertakings

(4) An undertaking listed in the following schedules, groups or categories of an approved class environmental assessment, as amended or re-named from time to time before May 1, 2019, and that is carried out by a person authorized to proceed in accordance with that class environmental assessment, is exempt from this Act:

1. Group A of the GO Transit Class Environmental Assessment Document approved by the Lieutenant Governor in Council on December 13, 1995 under Order in Council 2316/1995.
2. Group D of the Class Environmental Assessment for Provincial Transportation Facilities approved by the Lieutenant Governor in Council on October 6, 1999 under Order in Council 1653/1999.
3. Schedules A and A+ of the Municipal Class Environmental Assessment approved by the Lieutenant Governor in Council on October 4, 2000 under Order in Council 1923/2000.
4. Category A of the Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects approved by the Lieutenant Governor in Council on December 11, 2002 under Order in Council 2211/2002.
5. Category A of the Class Environmental Assessment Process for Management Board Secretariat and Ontario Realty Corporation approved by the Lieutenant Governor in Council on April 28, 2004 under Order in Council 913/2004.

6. Category A of the Class Environmental Assessment for Provincial Parks and Conservation Reserves approved by the Lieutenant Governor in Council on September 23, 2004 under Order in Council 1900/2004.
7. Category A of the Class Environmental Assessment for Activities of the Ministry of Northern Development and Mines under the Mining Act approved by the Lieutenant Governor in Council on December 12, 2012 under Order in Council 1952/2012. 2019, c. 9, Sched. 6, s. 5; 2020, c. 18, Sched. 6, s. 23 (2).

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 6, s. 5 - 06/06/2019

2020, c. 18, Sched. 6, s. 23 (1, 2) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Amendment of an approved class environmental assessment

15.4 (1) The Minister may amend an approved class environmental assessment in accordance with this section. 2019, c. 9, Sched. 6, s. 5.

Notice and comment

(2) When the Minister is considering amending an approved class environmental assessment under this section, the Minister shall ensure that adequate public notice of the proposed amendment is provided and that members of the public have an opportunity to comment on it. 2019, c. 9, Sched. 6, s. 5; 2020, c. 18, Sched. 6, s. 24.

Approval

(3) The Minister may amend an approved class environmental assessment if the Minister is satisfied that the amendments are consistent with the purpose of this Act and the public interest. 2019, c. 9, Sched. 6, s. 5.

Reasons

(4) When amending or refusing to amend an approved class environmental assessment, the Minister shall give written reasons to the person given approval in respect of the class environmental assessment under section 9 and to any other persons the Minister considers advisable. 2019, c. 9, Sched. 6, s. 5.

Administrative amendments

(5) The Director may amend an approved class environmental assessment to make one or more of the following administrative changes:

1. Correcting errors that are editorial or typographical in nature.
2. Updating references to an Act or regulation, or provisions or other portions of an Act or regulation.
3. Updating references to bodies, offices, persons, places, names, titles, locations, website or addresses.
4. Clarifying the existing text of the class environmental assessment. 2019, c. 9, Sched. 6, s. 5.

Own initiative

(6) The Minister or Director may amend an approved class environmental assessment on the Minister's or Director's own initiative. 2019, c. 9, Sched. 6, s. 5.

Commencement of amendment

(7) An amendment to an approved class environmental assessment, whether by the Minister or the Director, comes into effect upon publication of a notice of the amendment in the registry under the *Environmental Bill of Rights, 1993*. 2019, c. 9, Sched. 6, s. 5.

Section prevails

(8) Amendments to approved class environmental assessments must be made in accordance with this section despite any amendment processes that may be set out in those class environmental assessments or any conditions set out in an approval given under section 9. 2019, c. 9, Sched. 6, s. 5.

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 6, s. 5 - 06/06/2019

2020, c. 18, Sched. 6, s. 24 - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Order to comply with Part II

16 (1) The Minister may by order require a proponent to comply with Part II before proceeding with a proposed undertaking referred to in section 15. 2020, c. 18, Sched. 6, s. 25 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 16 (1) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 25 (2))

Order to comply with Part II.3

(1) The Minister may make an order declaring a proposed undertaking referred to in section 15 to be a Part II.3 project. 2020, c. 18, Sched. 6, s. 25 (2).

Same

(2) In an order under subsection (1), the Minister may do the following:

1. Set out directions with respect to the terms of reference governing the preparation of an environmental assessment for the undertaking.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 of subsection 16 (2) of the Act is amended by striking out “undertaking” at the end and substituting “project”. (See: 2020, c. 18, Sched. 6, s. 25 (3))

2. Declare that the proponent has satisfied such requirements for the preparation of an environmental assessment as are specified in the order. 2020, c. 18, Sched. 6, s. 25 (1).

Order imposing additional conditions

(3) The Minister may by order impose conditions on an undertaking referred to in section 15, in addition to the conditions that were imposed upon the approval of the class environmental assessment. 2020, c. 18, Sched. 6, s. 25 (1).

Same

(4) An order under subsection (1) or (3) may be made on the initiative of the Minister or on the request of a person under subsection (6). 2020, c. 18, Sched. 6, s. 25 (1).

Basis for order

(5) The Minister shall consider the following matters when making an order under subsection (1) or (3):

1. The purpose of this Act.
2. The factors suggesting that the proposed undertaking differs from other undertakings in the class to which the class environmental assessment applies.
3. The significance of the factors and of the differences mentioned in paragraph 2.
4. If a request for the order was made by a person under subsection (6), any ground for making the request that is given by that person and permitted under subsection (6).
5. The mediators’ report, if any, following a referral under subsection (7).
6. Such other matters as may be prescribed.
7. Such other matters as the Minister considers appropriate. 2020, c. 18, Sched. 6, s. 25 (1).

Request for order

(6) A person may request the Minister to make an order under this section only on the grounds that the order may prevent, mitigate or remedy adverse impacts on the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2020, c. 18, Sched. 6, s. 25 (1).

Mediation

(7) The Minister may refer a matter in connection with a request made under subsection (6) to mediation and section 8 applies with necessary modifications. 2020, c. 18, Sched. 6, s. 25 (1).

Order after request

(8) For the purpose of considering a request made by a person under subsection (6), the Director may require the proponent to undertake such consultations and to provide such information as the Director may specify. 2020, c. 18, Sched. 6, s. 25 (1).

Refusal after request

(9) If, after receiving a request under subsection (6), the Minister refuses to make an order, the Minister shall give the person who made the request and the proponent notice of his or her decision together with the reasons for the decision. 2020, c. 18, Sched. 6, s. 25 (1).

Notice of order

(10) The Minister shall give a copy of an order made under this section, together with the reasons for it, to the proponent, to the person who requested the order, if any and to such other persons as the Minister considers advisable. 2020, c. 18, Sched. 6, s. 25 (1).

Change to undertaking

(11) The Minister may make an order under this section with respect to a change to an undertaking and this section shall apply with necessary modifications to such an order. 2020, c. 18, Sched. 6, s. 25 (1).

Conflict

(12) This section prevails over anything to the contrary that may be provided for in an approved class environmental assessment. 2020, c. 18, Sched. 6, s. 25 (1).

Amendment of s. 16 (3) order

(13) The Minister may, in accordance with the regulations, if any, amend any order made under subsection 16 (3), regardless of whether the order was made before or after subsection 25 (1) of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* came into force. 2020, c. 18, Sched. 6, s. 25 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2019, c. 9, Sched. 6, s. 6 (1-6) - no effect - see 2020, c. 18, Sched. 6, s. 60 (1) - 21/07/2020

2020, c. 18, Sched. 6, s. 25 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 25 (2, 3), 26 - not in force

Time limit for orders

16.1 (1) The Minister shall not make an order under subsection 16 (1) or (3) on his or her own initiative if more than 30 days, or such other number of days as may be prescribed, has elapsed after the end of the comment period provided for in a notice of completion issued under the approved class environmental assessment, as that comment period may be extended in accordance with the approved class environmental assessment. 2020, c. 18, Sched. 6, s. 25 (1).

Notice of proposed order

(2) Despite subsection (1), the Minister may make an order under subsection 16 (1) or (3) on his or her own initiative after the time limit described in subsection (1) if before the time limit has elapsed the Director gives the proponent notice that the Minister is considering making the order. 2020, c. 18, Sched. 6, s. 25 (1).

New time limit

(3) If notice of a proposed order is given by the Director under subsection (2), the Minister may make the order under subsection 16 (1) or (3) only if he or she does so,

- (a) before the end of the 30-day period, or such other time period as may be prescribed, that follows the giving of the notice of the proposed order; or
- (b) if the Director includes in the notice of the proposed order a request for information under subsection (4), before the end of the 30-day period, or such other time period as may be prescribed, that follows the day the Director gives the proponent a notice of satisfactory response under clause (6) (a), subject to subsections (7) to (12). 2020, c. 18, Sched. 6, s. 25 (1).

Request for information

(4) In a notice of a proposed order, the Director may request that the proponent provide such information as the Director believes is necessary to assist the Minister in determining whether to make the order and that the information be provided on or before the specified deadline. 2020, c. 18, Sched. 6, s. 25 (1).

Compliance with request

(5) The proponent shall give the Director the information specified in the notice of the proposed order on or before the deadline specified in the notice. 2020, c. 18, Sched. 6, s. 25 (1).

Same

(6) If the Director is satisfied that the proponent has provided all the information requested in the notice of the proposed order within the specified deadline,

- (a) the Director shall give the proponent a notice of satisfactory response; and
- (b) the Minister may make the order within the time limit set out in clause (3) (b). 2020, c. 18, Sched. 6, s. 25 (1).

Failure to comply with request

(7) If a proponent fails to provide all the information requested in the notice of the proposed order within the specified deadline or if, upon review of the information provided, the Director is not satisfied that all the information requested has been provided,

- (a) the Director shall give the proponent a notice of unsatisfactory response;
- (b) the time limits under subsections (1) and (3) that applied with respect to the comment period provided for in the notice of completion previously issued by the proponent cease to apply;
- (c) the proponent shall issue a new notice of completion in accordance with subsection (9); and
- (d) the time limits under subsections (1) and (3) shall apply with respect to the comment period provided for in the new notice of completion. 2020, c. 18, Sched. 6, s. 25 (1).

Notice of unsatisfactory response

(8) A notice of unsatisfactory response issued by the Director under clause (7) (a) shall,

- (a) specify the information that the proponent must provide in order to satisfy the request for information that was made by the Director in the notice of the proposed order; and
- (b) advise the proponent that a new notice of completion must be issued by the proponent within the time period specified by the Director. 2020, c. 18, Sched. 6, s. 25 (1).

New notice of completion

(9) On or before the end of the time period specified by the Director in the notice of unsatisfactory response, the proponent shall,

- (a) issue a new notice of completion in accordance with such directions as may be specified by the Director; and
- (b) provide to the Director all of the information specified by the Director in the notice of unsatisfactory response. 2020, c. 18, Sched. 6, s. 25 (1).

New comment period

(10) The notice of completion issued under clause (9) (a) shall provide for a new comment period which shall be at least 30 days in duration. 2020, c. 18, Sched. 6, s. 25 (1).

Further failure to comply

(11) If a proponent fails to comply with subsections (9) and (10), subsections (7), (8), (9) and (10) shall apply with necessary modifications to that failure. 2020, c. 18, Sched. 6, s. 25 (1).

Same

(12) Subsection (11) shall apply to successive failures to comply with subsections (9) and (10) until the Director is satisfied that the proponent has provided all the requested information and issues a notice of satisfactory response in accordance with subsection (6) and, when the Director issues a notice of satisfactory response, the time limit set out in clause (6) (b) shall apply with respect to any order to be made by the Minister under subsection 16 (1) or (3) on his or her own initiative. 2020, c. 18, Sched. 6, s. 25 (1).

Change to undertaking

(13) This section applies if the Minister is considering making an order under subsection 16 (1) or (3) with respect to a change to an undertaking and, for the purpose of that application, any reference in this section to a notice of completion shall be deemed to be a reference to a notice of addendum. 2020, c. 18, Sched. 6, s. 25 (1).

Same, transition

(14) For greater certainty, the time limits in this section apply with respect to an undertaking referred to in section 15 where the notice of completion was issued under the approved class environmental assessment during the 30 days before the day

subsection 21 (1) of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* came into force and a copy of the notice is required to be submitted to the Director under subsection 15.1 (2). 2020, c. 18, Sched. 6, s. 25 (1).

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 25 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 26 - not in force

Transition

17 (1) A class environmental assessment approved by the Minister before this Part comes into force shall be deemed to have been approved under this Part and to have been valid from the date on which it was approved. 1996, c. 27, s. 3.

Same

(2) A class environmental assessment approved by the Minister before this Part comes into force shall be deemed to comply with this Part. 1996, c. 27, s. 3.

Same

(3) Section 16 applies with respect to an undertaking commenced after this Part comes into force that is proceeding in accordance with a class environmental assessment approved by the Minister before this Part comes into force. 1996, c. 27, s. 3.

Same

(4) Section 12.4 applies with necessary modifications with respect to a class environmental assessment. 1996, c. 27, s. 3.

Transition: amendments to class environmental assessments

(5) An amendment to a class environmental assessment made before section 15.4 comes into force shall be deemed to have been approved under that section and to have been valid from the date on which it was amended. 2019, c. 9, Sched. 6, s. 7 (1).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2019, c. 9, Sched. 6, s. 7 (1) - 06/06/2019; 2019, c. 9, Sched. 6, s. 7 (2) - no effect - see 2020, c. 18, Sched. 6, s. 60 (2) - 21/07/2020

2020, c. 18, Sched. 6, s. 26 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, Part II.2 of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 28)

**PART II.2
MUNICIPAL WASTE DISPOSAL**

Municipal waste disposal

17.1 (1) This section applies with respect to an undertaking by such municipalities as may be prescribed where the facilities or services of another person will be used for the final disposal of waste,

- (a) by depositing it at a dump;
- (b) by landfilling; or
- (c) by incineration. 1996, c. 27, s. 3.

Prohibition

(2) No municipality shall proceed with an undertaking to dispose of waste unless the municipality obtains approval to proceed under this Act. 1996, c. 27, s. 3.

Interpretation

(3) For the purposes of this section, a municipality is using the facilities or services of another person if the municipality enters into contracts or makes other arrangements with the person with respect to disposing of the waste. 1996, c. 27, s. 3.

Same

(4) For the purposes of this Act, the undertaking to dispose of waste includes,

- (a) the enterprise or activity of the other person; and
- (b) any proposal, plan or program of the person with respect to the disposal of the waste. 1996, c. 27, s. 3; 2020, c. 18, Sched. 6, s. 27.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 3 - 01/01/1997

2020, c. 18, Sched. 6, s. 27 - 21/07/2020; 2020, c. 18, Sched. 6, s. 28 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following Part: (See: 2020, c. 18, Sched. 6, s. 29)

**PART II.3
COMPREHENSIVE ENVIRONMENTAL ASSESSMENTS**

Approval for project

17.2 (1) Every proponent who wishes to proceed with a Part II.3 project shall apply to the Minister for approval to do so. 2020, c. 18, Sched. 6, s. 29.

Application

(2) The application consists of the proposed terms of reference submitted under subsection 17.4 (1) and the environmental assessment subsequently submitted under subsection 17.7 (1). 2020, c. 18, Sched. 6, s. 29.

Form, manner of application

(3) An application shall be submitted to the Minister in the form and manner specified by the Director. 2020, c. 18, Sched. 6, s. 29.

Prohibition

(4) No person shall proceed with a Part II.3 project unless the Minister gives his or her approval to proceed under section 17.15 or the Tribunal gives its approval under section 17.16. 2020, c. 18, Sched. 6, s. 29.

Same

(5) No person shall proceed with a Part II.3 project in a manner inconsistent with a condition imposed by the Minister or the Tribunal for proceeding with it. 2020, c. 18, Sched. 6, s. 29.

Potential non-compliance

(6) A proponent who has received approval to proceed with a Part II.3 project shall promptly notify the Minister if the proponent may not be able to comply with the approval as a result of a change in circumstances. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Obligation to consult

17.3 When preparing proposed terms of reference and an environmental assessment, the proponent shall consult with such persons as may be interested. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Terms of reference

17.4 (1) The proponent shall give the Ministry proposed terms of reference governing the preparation of an environmental assessment for the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Same

(2) The proposed terms of reference must,

- (a) indicate that the environmental assessment will be prepared in accordance with the requirements set out in subsection 17.6 (2);
- (b) indicate that the environmental assessment will be prepared in accordance with such requirements as may be prescribed for the class of Part II.3 project the proponent wishes to proceed with, which may include requirements to provide information that is greater than or less than what is required under subsection 17.6 (2); or
- (c) specify in detail the requirements for the preparation of the environmental assessment, which may include requirements to provide information that is greater than or less than what is required under subsection 17.6 (2). 2020, c. 18, Sched. 6, s. 29.

Same

(3) The proposed terms of reference must be accompanied by a description of the consultations by the proponent and the results of the consultations. 2020, c. 18, Sched. 6, s. 29.

Public notice

(4) The proponent shall give public notice of the proposed terms of reference and shall do so by the prescribed deadline and in the form and manner required by the Director. 2020, c. 18, Sched. 6, s. 29.

Same

(5) The public notice must indicate where and when members of the public may inspect the proposed terms of reference, state that they may give their comments about the proposed terms of reference to the Ministry and contain such other information as may be prescribed or as the Director may require. 2020, c. 18, Sched. 6, s. 29.

Notice to clerk of a municipality

(6) The proponent shall give the information contained in the public notice to the clerk of each municipality in which the Part II.3 project is to be carried out and shall do so by the deadline for giving the public notice. 2020, c. 18, Sched. 6, s. 29.

Notice to other persons

(7) The proponent shall give the information contained in the public notice to such other persons as the Director may require and shall do so by the deadline for giving the public notice. 2020, c. 18, Sched. 6, s. 29.

Public inspection

(8) Any person may inspect the proposed terms of reference in the places and at the times set out in the public notice. 2020, c. 18, Sched. 6, s. 29.

Comments

(9) Any person may comment in writing on the proposed terms of reference to the Ministry and, if the person wishes the comments to be considered by the Minister in deciding whether to approve the proposed terms of reference, shall submit the comments by the prescribed deadline. 2020, c. 18, Sched. 6, s. 29.

Approval

(10) The Minister shall approve the proposed terms of reference, with any amendments that he or she considers necessary, if he or she is satisfied that an environmental assessment prepared in accordance with the approved terms of reference will be consistent with the purpose of this Act and the public interest. 2020, c. 18, Sched. 6, s. 29.

Same

(11) The amendments made by the Minister under subsection (10) may include amendments to impose requirements that are greater than or less than the requirements of the regulations if the Minister is of the opinion that in the circumstances, the amendments are necessary in order to ensure that an environmental assessment prepared in accordance with the approved terms of reference will be consistent with the purpose of this Act and the public interest. 2020, c. 18, Sched. 6, s. 29.

Mediation

(12) Before approving proposed terms of reference, the Minister may refer a matter in connection with them to mediation, and section 17.14 applies with necessary modifications. 2020, c. 18, Sched. 6, s. 29.

Deadline, Minister's decision

(13) The Minister shall notify the proponent whether or not the proposed terms of reference are approved and shall do so by the prescribed deadline. 2020, c. 18, Sched. 6, s. 29.

Same

(14) If the Minister has not notified the proponent under subsection (13) by the prescribed deadline, the Minister shall provide written reasons to the proponent indicating why a decision was not made and when a decision is expected to be made. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Landfilling site, municipal support required

Definitions

17.5 (1) In this section,

“area of settlement” has the same meaning as in subsection 1 (1) of the *Planning Act*; (“zone de peuplement”)

“landfilling site” means a waste disposal site where landfilling occurs; (“lieu d’enfouissement”)

“parcel of land” has the same meaning as in subsection 46 (1) of the *Planning Act*; (“parcelle de terrain”)

“waste disposal site” has the same meaning as in Part V of the *Environmental Protection Act*. (“lieu d’élimination des déchets”) 2020, c. 18, Sched. 6, s. 29.

Same

(2) For the purposes of this section, the following terms have the meaning assigned to them under subsection 1 (1) of the *Municipal Act, 2001*:

1. Local municipality.
2. Municipality. 2020, c. 18, Sched. 6, s. 29.

Application

(3) This section applies in respect of a proponent who wishes to proceed with a Part II.3 project to establish a waste disposal site that is a landfilling site. 2020, c. 18, Sched. 6, s. 29.

Local municipalities whose support is required

(4) A proponent mentioned in subsection (3) shall, in accordance with subsection (5), obtain municipal support for the project from each local municipality,

- (a) in which the landfilling site would be situated; and
- (b) in which there is, as of the day on which the proponent gives public notice of the proposed terms of reference under subsection 17.4 (4), a parcel of land,
 - (i) on which residential uses, other than residential uses that are ancillary to other uses, are authorized by the official plan of the municipality,
 - (ii) that is within an area of settlement, and
 - (iii) that is located within a 3.5 kilometre distance, or such other distance as may be prescribed, perpendicular at each point from the property boundary of the property on which the proposed landfilling site would be situated. 2020, c. 18, Sched. 6, s. 29.

Evidence of support

(5) For the purposes of subsection (4), the proponent shall provide to the Ministry,

- (a) a copy of a municipal council resolution for each local municipality in respect of which municipal support is required under subsection (4), indicating the municipality supports the project to establish a waste disposal site that is a landfilling site;
- (b) a well-marked and legible map showing the location of the landfilling site, the boundaries of each local municipality mentioned in clause (a) and markings to illustrate the characteristics of a municipality under clause (4) (b); and
- (c) a description of the process used to identify the local municipalities whose support for the project is required under subsection (4). 2020, c. 18, Sched. 6, s. 29.

Resolution

(6) For greater certainty, a municipal council resolution described in clause (5) (a) is not a matter that falls within the waste management sphere of jurisdiction under subsection 11 (3) of the *Municipal Act, 2001*. 2020, c. 18, Sched. 6, s. 29.

Evidence to be included in environmental assessment

(7) The information mentioned in subsection (5) shall be included in the environmental assessment submitted to the Ministry under subsection 17.7 (1). 2020, c. 18, Sched. 6, s. 29.

Confirmation

(8) With respect to an environmental assessment submitted by a proponent mentioned in subsection (3), until the date the Director has confirmed in writing to the proponent that the requirements set out in subsections (4) and (5) have been satisfied with respect to the project,

- (a) the environmental assessment is deemed not to have been received by the Ministry under subsection 17.7 (1); and
- (b) the proponent shall not give public notice of the submission of the environmental assessment under subsection 17.8 (1). 2020, c. 18, Sched. 6, s. 29.

Exceptions

(9) This section does not apply,

- (a) in respect of a waste disposal site that is a landfilling site established by the Minister under clause 4 (1) (k) of the *Environmental Protection Act*; or
- (b) to a proponent seeking an approval under this Part if the approval is required pursuant to a regulation made under clause 176 (4) (o) of the *Environmental Protection Act* with respect to a waste disposal site that is a landfilling site. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Preparation of environmental assessment

17.6 (1) The proponent shall prepare an environmental assessment for a Part II.3 project in accordance with the approved terms of reference. 2020, c. 18, Sched. 6, s. 29.

Contents

(2) Subject to clauses 17.4 (2) (b) and (c), the environmental assessment must consist of,

- (a) a description of the purpose of the project;
- (b) a description of and a statement of the rationale for,
 - (i) the Part II.3 project,
 - (ii) the alternative methods of carrying out the Part II.3 project, and
 - (iii) the alternatives to the Part II.3 project;
- (c) a description of,
 - (i) the environment that will be affected or that might reasonably be expected to be affected, directly or indirectly,
 - (ii) the effects that will be caused or that might reasonably be expected to be caused to the environment, and
 - (iii) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment, by the Part II.3 project, the alternative methods of carrying out the Part II.3 project and the alternatives to the Part II.3 project;
- (d) an evaluation of the advantages and disadvantages to the environment of the Part II.3 project, the alternative methods of carrying out the Part II.3 project and the alternatives to the Part II.3 project; and
- (e) a description of any consultation about the Part II.3 project by the proponent and the results of the consultation. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Submission of environmental assessment

17.7 (1) After receiving notice that the terms of reference of a Part II.3 project are approved by the Minister, the proponent shall submit an environmental assessment for the project to the Ministry. 2020, c. 18, Sched. 6, s. 29.

Time limits

(2) A time period within which a proponent must submit an environmental assessment for a Part II.3 project to the Ministry may be set out in the approved terms of reference or may be prescribed. 2020, c. 18, Sched. 6, s. 29.

Compliance with time limits

- (3) A proponent of a Part II.3 project shall submit the environmental assessment for the project,
- (a) within the time period set out in the approved terms of reference, if any; or
 - (b) if no time period is set out in the approved terms of reference, within any prescribed time period. 2020, c. 18, Sched. 6, s. 29.

Extension of deadline

- (4) Any time period for the submission of an environmental assessment that is prescribed in accordance with subsection (2) may be extended by the Minister by such further time period as the Minister considers appropriate, but the extension shall not exceed any prescribed maximum time period. 2020, c. 18, Sched. 6, s. 29.

Termination, missed deadline

- (5) If a proponent does not submit an environmental assessment for a Part II.3 project by the end of the applicable time period, the application shall be terminated. 2020, c. 18, Sched. 6, s. 29.

Replacement terms of reference

- (6) If an application for approval of a Part II.3 project is terminated under subsection (5), the proponent may give the Minister a second proposed terms of reference with respect to the Part II.3 project under subsection 17.4 (1) and the second proposed terms of reference may be the same as the terms of reference previously given and approved. 2020, c. 18, Sched. 6, s. 29.

Amendment or withdrawal

- (7) After it is submitted to the Ministry, the proponent may amend or withdraw the environmental assessment at any time before the deadline for completion of the Ministry review of the environmental assessment. 2020, c. 18, Sched. 6, s. 29.

Same

- (8) The proponent may amend or withdraw the environmental assessment after the deadline for completion of the Ministry review only upon such conditions as the Minister may by order impose. 2020, c. 18, Sched. 6, s. 29.

Same

- (9) The Minister may by order amend or revoke conditions imposed under this section. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Public notice of submission

- 17.8** (1) The proponent shall give public notice of the submission of the environmental assessment and shall do so by the prescribed deadline and in the form and manner as the Director may require. 2020, c. 18, Sched. 6, s. 29.

Same

- (2) The public notice must indicate where and when members of the public may inspect the environmental assessment, state that they may give their comments about it to the Ministry and contain such other information as the Director may require. 2020, c. 18, Sched. 6, s. 29.

Notice to clerk of a municipality

- (3) The proponent shall give the information contained in the public notice to the clerk of each municipality in which the Part II.3 project is to be carried out and shall do so by the deadline for giving the public notice. 2020, c. 18, Sched. 6, s. 29.

Notice to other persons

- (4) The proponent shall give the information contained in the public notice to such other persons as the Director may require and shall do so by the deadline for giving the public notice. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Public inspection of environmental assessment

- 17.9** (1) Any person may inspect the environmental assessment in the places and at the times set out in the public notice. 2020, c. 18, Sched. 6, s. 29.

Comments

(2) Any person may comment in writing on the Part II.3 project or on the environmental assessment to the Ministry and, if the person wishes the comments to be considered during the preparation of the Ministry review, shall submit the comments by the prescribed deadline. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Information to be made available

17.10 In addition to complying with any requirements under this Act with respect to public notice, a proponent shall make available such information as the Director may require with respect to the application and the Part II.3 project in such form and manner as the Director may require. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

MINISTRY REVIEW

Ministry review of environmental assessment

17.11 (1) The Ministry shall prepare a review of the environmental assessment and shall take into account any comments received from members of the public by the deadline prescribed under subsection 17.9 (2). 2020, c. 18, Sched. 6, s. 29.

Completion date

(2) The review must be completed by the prescribed deadline. 2020, c. 18, Sched. 6, s. 29.

Extension

(3) The deadline for completing the review may be extended by the Director for a prescribed reason or for an unusual, unexpected or urgent reason that the Director considers compelling. The Director shall notify such persons as he or she considers appropriate if the deadline is extended. 2020, c. 18, Sched. 6, s. 29.

Deficient environmental assessment

(4) If the Director considers that the environmental assessment is deficient in relation to the approved terms of reference and the purpose of this Act, the Director may give the proponent a statement describing the deficiencies and shall do so at least 14 days before the deadline for completing the review. 2020, c. 18, Sched. 6, s. 29.

Remedying deficiencies

(5) The proponent may take such steps as are necessary to remedy the deficiencies described in the statement and shall do so within seven days after receiving the statement or such other period as the Director may specify in the statement given under subsection (4). 2020, c. 18, Sched. 6, s. 29.

Rejection of environmental assessment

(6) The Minister may reject the environmental assessment if the Director is not satisfied that the deficiencies have been remedied within the seven-day period or such other period as the Director may specify in the statement given under subsection (4). 2020, c. 18, Sched. 6, s. 29.

Notice of rejection

(7) The Director shall notify the proponent, the clerk of each municipality in which the Part II.3 project is to be carried out and the public if the Minister rejects the environmental assessment, and shall do so before the deadline for completing the review. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Notice of completion of Ministry review

17.12 (1) The Director shall notify the proponent and the clerk of each municipality in which the Part II.3 project is to be carried out when the Ministry review is completed. 2020, c. 18, Sched. 6, s. 29.

Public notice

(2) The Director shall give public notice of the completion of the review in such form and manner as the Director considers suitable. 2020, c. 18, Sched. 6, s. 29.

Same

(3) The public notice must indicate where and when members of the public may inspect the review and state that they may give their comments about it to the Ministry. It must also contain such other information as may be prescribed. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Public inspection of Ministry review

17.13 (1) Any person may inspect the Ministry review in the places and at the times set out in the public notice. 2020, c. 18, Sched. 6, s. 29.

Comments

(2) Any person may comment in writing on the Part II.3 project, the environmental assessment and the review to the Ministry and, if the person wishes the comments to be considered when the Minister decides the proponent's application, shall submit the comments by the prescribed deadline. 2020, c. 18, Sched. 6, s. 29.

Request for hearing

(3) Any person may request that the Minister refer the proponent's application or a matter that relates to it to the Tribunal for hearing and decision. 2020, c. 18, Sched. 6, s. 29.

Same

(4) A request under subsection (3) must be made in writing to the Ministry before the deadline for submitting comments on the review. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

DECISIONS ON THE APPLICATION**Mediation**

17.14 (1) Before the application is decided, the Minister may appoint one or more persons to act as mediators who shall endeavour to resolve such matters as may be identified by the Minister as being in dispute or of concern in connection with the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Same

(2) The Minister may appoint the Tribunal to act as mediator. 2020, c. 18, Sched. 6, s. 29.

Notice of mediation

(3) The Minister shall notify the following persons of his or her decision to refer certain matters to mediation and shall give them written reasons for the decision:

1. The proponent.
2. The clerk of each municipality in which the Part II.3 project is to be carried out.
3. Every person who submitted comments under subsection 17.9 (2) or 17.13 (2).
4. Such other persons as the Minister considers appropriate. 2020, c. 18, Sched. 6, s. 29.

Parties

(4) The parties to the mediation are the proponent and such other persons as the Minister may identify. Instead of identifying parties by name, the Minister may determine the manner in which they are to be identified and invited to participate. 2020, c. 18, Sched. 6, s. 29.

Closed proceedings

(5) Unless the mediators decide otherwise, the mediation is not open to the public. 2020, c. 18, Sched. 6, s. 29.

Report

(6) The mediators shall give the Minister a written report on the conduct and results of the mediation. 2020, c. 18, Sched. 6, s. 29.

Deadline

(7) The mediators shall give their report to the Minister within 60 days after their appointment or by such earlier deadline as the Minister may specify. 2020, c. 18, Sched. 6, s. 29.

Confidentiality

(8) No person except the Minister shall make public any portion of the report. 2020, c. 18, Sched. 6, s. 29.

Disclosure

(9) The Minister shall make the report public promptly after the Minister makes his or her decision under section 17.15 or the decision of the Tribunal under section 17.16 becomes effective. The Minister may make all or part of the report public before then only with the consent of the parties to the mediation. 2020, c. 18, Sched. 6, s. 29.

Fees and expenses

(10) The proponent shall pay the fees and reasonable expenses of the mediators. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Decision by Minister

17.15 (1) The Minister may decide an application and, with the approval of the Lieutenant Governor in Council or of such ministers of the Crown as the Lieutenant Governor in Council may designate, the Minister may,

- (a) give approval to proceed with the Part II.3 project;
- (b) give approval to proceed with the Part II.3 project subject to such conditions as the Minister considers necessary to carry out the purpose of this Act and in particular requiring or specifying,
 - (i) the methods and phasing of the carrying out of the Part II.3 project,
 - (ii) the works or actions to prevent, mitigate or remedy effects of the Part II.3 project on the environment,
 - (iii) such research, investigations, studies and monitoring programs related to the Part II.3 project, and reports thereof, as the Minister considers necessary,
 - (iv) such changes in the Part II.3 project as the Minister considers necessary,
 - (v) a process to be followed in respect of any changes to the project that the proponent may wish to make after the approval is given, which may include granting authority to the Director or Minister to,
 - (A) require the proponent to engage in additional consultation, and to provide additional information, in respect of proposed changes, and
 - (B) give approval, attach conditions to the approval or refuse to give approval to proceed with the changes,
 - (vi) that the process referred to in subclause (v) is only available for specified changes or classes of changes to the projects,
 - (vii) that the proponent enter into one or more agreements related to the Part II.3 project with any person with respect to such matters as the Minister considers necessary,
 - (viii) that the proponent comply with all or any of the provisions of the environmental assessment that may be incorporated by reference in the approval,
 - (ix) the period of time during which the Part II.3 project or any part thereof shall be commenced or carried out; or
- (c) refuse to give approval to proceed with the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Subs. (1) (b) (v), process to make changes

(2) A process mentioned in subclause (1) (b) (v) may be set out in an approval or may be incorporated by reference into an approval. 2020, c. 18, Sched. 6, s. 29.

Basis for decision

(3) The Minister shall consider the following matters when deciding an application:

1. The purpose of this Act.
2. The approved terms of reference for the environmental assessment.

3. The environmental assessment.
4. The Ministry review of the environmental assessment.
5. The comments submitted under subsections 17.9 (2) and 17.13 (2).
6. The mediator's report, if any, given to the Minister under section 17.14.
7. Such other matters as the Minister considers relevant to the application. 2020, c. 18, Sched. 6, s. 29.

Notice to proponent

(4) The Minister shall notify the proponent of the decision and shall give the proponent written reasons for it. 2020, c. 18, Sched. 6, s. 29.

Notice to others

(5) The Minister shall notify every person who submitted comments to the Ministry under subsection 17.13 (2) of the decision. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Referral to Tribunal

17.16 (1) The Minister may refer an application to the Tribunal for a decision. 2020, c. 18, Sched. 6, s. 29.

Powers of Tribunal

(2) The Tribunal may make any decision the Minister is permitted to make under subsection 17.15 (1). 2020, c. 18, Sched. 6, s. 29.

Basis for decision

(3) The Tribunal shall consider the following things when deciding an application:

1. The purpose of this Act.
2. The approved terms of reference for the environmental assessment.
3. The environmental assessment.
4. The Ministry review of the environmental assessment.
5. The comments submitted under subsections 17.9 (2) and 17.13 (2).
6. If a mediators' report has been given to the Minister under section 17.14, any portion of the report that has been made public. 2020, c. 18, Sched. 6, s. 29.

Same

(4) The decision of the Tribunal must be consistent with the approved terms of reference for the environmental assessment. 2020, c. 18, Sched. 6, s. 29.

Deadline

(5) The Tribunal shall make its decision by the deadline the Minister specifies or by such later date as the Minister may permit if he or she considers that there is a sufficient reason (which is unusual, urgent or compassionate) for doing so. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Referral to Tribunal of part of a decision

17.17 (1) The Minister may refer to the Tribunal for hearing and decision a matter that relates to an application. 2020, c. 18, Sched. 6, s. 29.

Restrictions

(2) The Minister may give such directions or impose such conditions on the referral as the Minister considers appropriate and may amend the referral. 2020, c. 18, Sched. 6, s. 29.

Proposed decision

(3) The Minister shall inform the Tribunal of decisions that the Minister proposes to make on matters not referred to the Tribunal in connection with the application. 2020, c. 18, Sched. 6, s. 29.

Notice of referral

(4) The Minister shall give notice of the referral to the proponent and to every person who submitted comments to the Ministry under subsection 17.13 (2) and shall give them the information given to the Tribunal under subsection (3). 2020, c. 18, Sched. 6, s. 29.

Basis for decision

(5) The Tribunal shall observe any directions given and conditions imposed by the Minister when referring the matter to the Tribunal and shall consider the following things to the extent that the Tribunal considers them relevant:

1. The purpose of this Act.
2. The approved terms of reference for the environmental assessment.
3. The Ministry review of the environmental assessment.
4. The comments submitted under subsections 17.9 (2) and 17.13 (2).
5. If a mediators' report has been given to the Minister under section 17.14, any portion of the report that has been made public.
6. The decisions the Minister proposes to make on matters not referred to the Tribunal in connection with the application. 2020, c. 18, Sched. 6, s. 29.

Deadline for deciding

(6) The Tribunal shall make its decision by the deadline the Minister specifies or by such later date as the Minister may permit if he or she considers that there is a sufficient reason (which is unusual, urgent or compassionate) for doing so. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Request for referral to Tribunal

17.18 (1) This section applies if under subsection 17.13 (3) a person requests the Minister to refer an application or a matter that relates to one to the Tribunal for hearing and decision. 2020, c. 18, Sched. 6, s. 29.

Referral of application

(2) If referral of the application is requested, the Minister shall refer the application to the Tribunal under section 17.16 unless in his or her absolute discretion,

- (a) the Minister considers the request to be frivolous or vexatious;
- (b) the Minister considers a hearing to be unnecessary; or
- (c) the Minister considers that a hearing may cause undue delay in determining the application. 2020, c. 18, Sched. 6, s. 29.

Same, related matter

(3) If referral of a matter that relates to the application is requested, the Minister shall refer the matter to the Tribunal under section 17.17 except in the circumstances described in subsection (2). 2020, c. 18, Sched. 6, s. 29.

Referral in part

(4) Despite subsection (2) or (3), if referral of an application or of matters relating to the application is requested but the Minister considers a hearing to be appropriate in respect of only some matters, the Minister shall refer those matters to the Tribunal under section 17.17. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Deadline, Minister's decisions

17.19 (1) Once the deadline has passed for submitting comments on the Ministry review of an environmental assessment, the Minister shall determine by the prescribed deadline whether to refer a matter in connection with the application to mediation or to the Tribunal under section 17.17. 2020, c. 18, Sched. 6, s. 29.

Same

(2) By the prescribed deadline, the Minister shall decide the application under section 17.15 or refer it to the Tribunal for a decision under section 17.16. 2020, c. 18, Sched. 6, s. 29.

Different deadlines

(3) For the purpose of subsection (2), different deadlines may be prescribed for applications in which a matter is referred to mediation or to the Tribunal under section 17.17 and for applications in which no referral is made. 2020, c. 18, Sched. 6, s. 29.

Same

(4) If the Minister has not made a decision under subsection (2) by the prescribed deadline, the Minister shall provide written reasons to the proponent indicating why a decision was not made and when a decision is expected to be made. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Referral to other tribunal, entity

17.20 (1) The Minister may refer to a tribunal (other than the Environmental Review Tribunal) or an entity for decision a matter that relates to an application if the Minister considers it appropriate in the circumstances. 2020, c. 18, Sched. 6, s. 29.

Deadline for referring

(2) The Minister shall make any decision to refer a matter to the tribunal or entity by the deadline by which the application must otherwise be decided. 2020, c. 18, Sched. 6, s. 29.

Restrictions

(3) The Minister may give such directions or impose such conditions on the referral as the Minister considers appropriate and may direct that the matter be decided without a hearing, whether or not a hearing on the matter is otherwise required. 2020, c. 18, Sched. 6, s. 29.

Same

(4) If the Minister refers a matter under this section, the Minister shall refer it to the tribunal or entity, if any, that is authorized under another Act to decide such matters. However, the Minister is not required to select that tribunal or entity if the Minister has a reason not to. 2020, c. 18, Sched. 6, s. 29.

Amendment

(5) The Minister may amend a referral to the tribunal or entity. 2020, c. 18, Sched. 6, s. 29.

Deemed decision

(6) A decision of the tribunal or entity under this section shall be deemed to be a decision of the Minister. 2020, c. 18, Sched. 6, s. 29.

Referral by Tribunal

(7) The Tribunal may refer to another tribunal or entity for decision a matter that relates to an application, and subsections (1) to (6) apply with necessary modifications with respect to the referral. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Deferral of part of a decision

17.21 (1) The Minister may defer deciding a matter that relates to an application if the Minister considers it appropriate to do so because the matter is being considered in another forum or for scientific, technical or other reasons. 2020, c. 18, Sched. 6, s. 29.

Same, Tribunal

(2) The Tribunal may defer deciding a matter that relates to an application if the Tribunal considers it appropriate to do so because the matter is being considered in another forum or for scientific, technical or other reasons. 2020, c. 18, Sched. 6, s. 29.

Deadline

(3) The Minister or the Tribunal shall make any decision to defer deciding a matter by the deadline by which the application must otherwise be decided. 2020, c. 18, Sched. 6, s. 29.

Notice of deferral

(4) The Minister or the Tribunal shall give notice of the deferral to the proponent and to every person who submitted comments to the Ministry under subsection 17.13 (2). 2020, c. 18, Sched. 6, s. 29.

Reasons

(5) The Minister or the Tribunal shall give written reasons for a deferral, indicating why the deferral is appropriate in the circumstances. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Review of Tribunal decision

17.22 (1) The Minister may review a decision of the Tribunal under section 17.16 and may make an order or give a notice described in subsection (3) within 28 days after receiving a copy of the decision or within such longer period as the Minister may determine within that 28-day period. 2020, c. 18, Sched. 6, s. 29.

Same; s. 17.17

(2) The Minister may review a decision of the Tribunal under section 17.17 and may make an order or give a notice described in subsection (3) at any time before the Minister decides the application under section 17.15. 2020, c. 18, Sched. 6, s. 29.

Order

(3) With the approval of the Lieutenant Governor in Council or such ministers of the Crown as the Lieutenant Governor in Council may designate, the Minister may,

- (a) by order, vary the decision of the Tribunal;
- (b) by order, substitute his or her decision for the decision of the Tribunal; or
- (c) by a notice to the Tribunal,
 - (i) require the Tribunal to hold a new hearing respecting all or part of the application and reconsider its decision, if the notice is given under subsection (1), or
 - (ii) require the Tribunal to hold a new hearing respecting all or part of the matter referred to the Tribunal under section 17.17 and reconsider its decision, if the notice is given under subsection (2). 2020, c. 18, Sched. 6, s. 29.

Same

(4) If the Minister reviews under subsection (1) a decision of the Tribunal made under section 17.16 and then, with the approval of the Lieutenant Governor in Council or of such ministers of the Crown as the Lieutenant Governor in Council may designate, makes an order under clause (3) (a) or (b), the varied or substituted decision is deemed to be the decision made by the Minister, with the necessary approval, under section 17.15. 2020, c. 18, Sched. 6, s. 29.

Notice of order, etc.

(5) The Minister shall notify the persons who were given a copy of the Tribunal's decision,

- (a) that the Minister has made an order or given a notice described in subsection (3); or
- (b) that the Minister intends to do so within the period specified in the notice. 2020, c. 18, Sched. 6, s. 29.

Copy of order, etc.

(6) The Minister shall give a copy of his or her order or notice under subsection (3), together with the reasons for it, to the persons who were given a copy of the Tribunal's decision. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

When Tribunal decision is effective

17.23 A decision of the Tribunal is effective only after the expiry of the period under section 17.22 during which the Minister may review it and make an order or give a notice in respect of it. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Reconsideration of decisions

17.24 (1) If there is a change in circumstances or new information concerning an application and if the Minister considers it appropriate to do so, he or she may reconsider an approval given by the Minister or the Tribunal to proceed with a Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Same

(2) The Minister may request the Tribunal to determine whether it is appropriate to reconsider an approval. 2020, c. 18, Sched. 6, s. 29.

Same

(3) The Minister may request the Tribunal to reconsider an approval given by the Minister or the Tribunal. 2020, c. 18, Sched. 6, s. 29.

Minister may require plans, etc.

(4) For the purposes of making a decision under this section, the Minister or the Tribunal may, by order, require the proponent of the Part II.3 project to provide plans, specifications, technical reports or other information and to carry out and report on tests or experiments relating to the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Amendment, revocation

(5) Where the Minister or the Tribunal reconsiders an approval under this section, that approval may be amended or revoked. 2020, c. 18, Sched. 6, s. 29.

Rules, etc.

(6) A decision under this section shall be made in accordance with any rules and subject to any restrictions as may be prescribed. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Expiry of approval

Application of section

17.25 (1) Subject to subsection (5), this section applies in respect of an approval to proceed with a Part II.3 project if the approval does not specify a period of time following the giving of the approval after which the approval expires or a date after which a proponent cannot proceed under the approval. 2020, c. 18, Sched. 6, s. 29.

Expiry

(2) If the Part II.3 project has not been substantially commenced by the 10th anniversary of the day approval to proceed with the project was given under this Act or by the end of any extension to that 10-year period granted by the Minister under subsection (3), the approval expires on the later of,

- (a) the 10th anniversary or the end of the extended period, as the case may be; or
- (b) the day section 29 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force. 2020, c. 18, Sched. 6, s. 29.

Extension

(3) The Minister may, by notice to the proponent, grant an extension of the period within which a Part II.3 project is to be substantially commenced beyond the 10th anniversary of the day approval to proceed with the project was given and may grant such an extension subject to any conditions specified in the notice. 2020, c. 18, Sched. 6, s. 29.

Same

(4) An extension under subsection (3) may be granted at any time, including after the approval has expired. 2020, c. 18, Sched. 6, s. 29.

Exception, regulations

(5) The Minister may make regulations exempting projects from this section. 2020, c. 18, Sched. 6, s. 29.

Minister may include date

(6) If a Part II.3 project is exempted from this section by regulations, the Minister may amend the approval to proceed with that project to include a date on which the approval will expire. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

OTHER MATTERS**Replacement of environmental assessment**

17.26 (1) A proponent may submit a second environmental assessment to replace an environmental assessment withdrawn by the proponent or rejected by the Minister. 2020, c. 18, Sched. 6, s. 29.

Same

(2) The second environmental assessment must be prepared in accordance with the approved terms of reference. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Activities permitted before approval

17.27 (1) Before a proponent receives approval to proceed with a Part II.3 project, a person may,

- (a) take any action in connection with the Part II.3 project that may be necessary to comply with this Act;
- (b) acquire property or rights in property in connection with the Part II.3 project;
- (c) prepare a feasibility study and engage in research in connection with the Part II.3 project;
- (d) establish a reserve fund or another financing mechanism in connection with the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Restriction on issuing certain documents

(2) No person shall issue a document evidencing that an authorization required at law to proceed with the Part II.3 project has been given until the proponent receives approval under this Act to proceed with the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Exception

(3) Despite subsection (2), a document described in that subsection may be issued with respect to an activity permitted by subsection (1) before the proponent receives the approval. 2020, c. 18, Sched. 6, s. 29.

Restriction on provincial funding

(4) The Crown or a Crown agency shall not give a loan, grant, subsidy or guarantee with respect to the Part II.3 project until the proponent receives approval to proceed with the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Exception

(5) Despite subsection (4), a loan, grant, subsidy or guarantee described in that subsection may be given with respect to an activity permitted by subsection (1) before the proponent receives the approval. 2020, c. 18, Sched. 6, s. 29.

Prohibition following approval

(6) No person shall issue a document described in subsection (2) or give a loan, grant, subsidy or guarantee described in subsection (4) with respect to a Part II.3 project if it would be inconsistent with a condition imposed upon the approval to proceed with the Part II.3 project. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Application of s. 17.24

17.28 Section 17.24 applies in respect of an environmental assessment to which all or part of Part II or a predecessor to that Part applied, and such an environmental assessment is deemed to be an application for the purpose of section 17.24. 2020, c. 18, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 29 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following Part: (See: 2020, c. 18, Sched. 6, s. 30)

**PART II.4
STREAMLINED ENVIRONMENTAL ASSESSMENTS**

Prohibition

17.29 (1) No person shall proceed with a Part II.4 project until the person has satisfied the prescribed requirements for commencing the project, including the completion of a prescribed environmental assessment process. 2020, c. 18, Sched. 6, s. 30.

Exception

(2) Despite subsection (1), a proponent of a Part II.4 project may apply under subsection 17.2 (1) to the Minister for approval to proceed with the Part II.4 project as a Part II.3 project. On and after the day the proponent applies under subsection 17.2 (1), the project shall be deemed to be a Part II.3 project and Part II.3 applies in respect of it instead of this section. 2020, c. 18, Sched. 6, s. 30.

Same

(3) Subsection (2) ceases to apply if the application for approval to proceed with a project as a Part II.3 project is withdrawn by the proponent. 2020, c. 18, Sched. 6, s. 30.

Same

(4) Despite subsection (1), if the Minister makes an order under subsection 17.31 (1) declaring the Part II.4 project to be a Part II.3 project for the purposes of this Act, this section ceases to apply with respect to the project and Part II.3 applies. 2020, c. 18, Sched. 6, s. 30.

Proceeding with project

(5) After the prescribed requirements for commencing a Part II.4 project have been satisfied, a person may proceed with the project but shall do so only in accordance with the prescribed requirements for proceeding with the project. 2020, c. 18, Sched. 6, s. 30.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 30 - not in force

Activities permitted before proceeding

17.30 (1) Before the proponent of a Part II.4 project has satisfied the prescribed requirements for commencing the project, a person may,

- (a) take any action in connection with the project that may be necessary to comply with this Act;
- (b) acquire property or rights in property in connection with the project;
- (c) prepare a feasibility study and engage in research in connection with the project; or
- (d) establish a reserve fund or another financing mechanism in connection with the project. 2020, c. 18, Sched. 6, s. 30.

Restriction on issuing certain documents

(2) No person shall issue a document evidencing that an authorization required at law to proceed with the project has been given until the proponent has satisfied the prescribed requirements for commencing the project. 2020, c. 18, Sched. 6, s. 30.

Exception

(3) Despite subsection (2), a document described in that subsection may be issued with respect to an activity permitted by subsection (1) before the proponent has satisfied the prescribed requirements for commencing the project. 2020, c. 18, Sched. 6, s. 30.

Restriction on provincial funding

(4) The Crown or a Crown agency shall not give a loan, grant, subsidy or guarantee with respect to the project until the proponent has satisfied the prescribed requirements for commencing the project. 2020, c. 18, Sched. 6, s. 30.

Exception

(5) Despite subsection (4), a loan, grant, subsidy or guarantee described in that subsection may be given with respect to an activity permitted by subsection (1) before the proponent has satisfied the prescribed requirements for commencing the project. 2020, c. 18, Sched. 6, s. 30.

Prohibition on projects that are proceeding

(6) No person shall issue a document described in subsection (2) or give a loan, grant, subsidy or guarantee described in subsection (4) with respect to a Part II.4 project after the prescribed requirements for commencing the project have been satisfied if doing so would be contrary to,

- (a) a prescribed requirement for proceeding with the project; or
- (b) a requirement imposed in an order of the Minister under subsection 17.31 (3). 2020, c. 18, Sched. 6, s. 30.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 30 - not in force

Order to comply with Part II.3

17.31 (1) The Minister may make an order declaring a Part II.4 project to be a Part II.3 project for the purposes of this Act. 2020, c. 18, Sched. 6, s. 30.

Same

(2) In an order under subsection (1), the Minister may do the following:

1. Set out directions with respect to the terms of reference governing the preparation of an environmental assessment under Part II.3 for the project.
2. Declare that the proponent has satisfied such requirements for the preparation of an environmental assessment under Part II.3 as are specified in the order. 2020, c. 18, Sched. 6, s. 30.

Same, additional requirements

(3) The Minister may by order impose requirements on a Part II.4 project in addition to any prescribed requirements for commencing or proceeding with the project. 2020, c. 18, Sched. 6, s. 30.

Same

(4) An order under subsection (1) or (3) may be made on the initiative of the Minister or on the request of a person under subsection (7). 2020, c. 18, Sched. 6, s. 30.

Prescribed limits

(5) The Minister shall not make an order under subsection (1) or (3) on his or her own initiative after the prescribed deadline. 2020, c. 18, Sched. 6, s. 30.

Basis for order

(6) The Minister shall consider the following matters when making an order under this section:

1. The purpose of this Act.
2. The factors suggesting that the proposed Part II.4 project differs from other Part II.4 projects of the same type.
3. The significance of the factors and of the differences mentioned in paragraph 2.
4. If a request for the order was made by a person under subsection (7), any ground for making the request that is given by that person and permitted under subsection (7).
5. The mediators' report, if any, following a referral under subsection (10).

6. Such other matters as may be prescribed.

7. Such other matters as the Minister considers appropriate. 2020, c. 18, Sched. 6, s. 30.

Request for order

(7) A person may request the Minister to make an order under this section only on the grounds that the order may prevent, mitigate or remedy adverse impacts on the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2020, c. 18, Sched. 6, s. 30.

Same

(8) A request under subsection (7) shall be made in the form and manner that may be specified by the Director and shall include such information as may be specified by the Director. 2020, c. 18, Sched. 6, s. 30.

Same

(9) If a request is made under subsection (7) with respect to a project, no person shall proceed with the project until such time as,

(a) the Minister has made a decision with respect to the request; or

(b) the Minister has given a notice to the proponent stating that the proponent may proceed with the project. 2020, c. 18, Sched. 6, s. 30.

Mediation

(10) The Minister may refer a matter in connection with a request to mediation and section 17.14 applies with necessary modifications. 2020, c. 18, Sched. 6, s. 30.

Order after request

(11) For the purpose of considering a request made by a person under subsection (7), the Director may require the proponent to undertake such consultations and to provide such information as the Director may specify. 2020, c. 18, Sched. 6, s. 30.

Refusal after request

(12) If, after receiving a request under subsection (7), the Minister refuses to make an order, the Minister shall notify the person who made the request of his or her decision and shall give the person reasons for the decision. 2020, c. 18, Sched. 6, s. 30.

Notice of order

(13) The Minister shall give a copy of an order under this section, together with the reasons for it, to the proponent, to the person, if any, who requested an order and to such other persons as the Minister considers advisable. 2020, c. 18, Sched. 6, s. 30.

Change to project

(14) If a proponent of a Part II.4 project wishes to make a change to the project after it has satisfied the prescribed requirements for commencing the project, the Minister may make an order under this section with respect to the change and this section shall apply with necessary modifications to such an order. 2020, c. 18, Sched. 6, s. 30.

Amendment of subs. (3) order

(15) The Minister may, in accordance with the regulations, if any, amend any order made under subsection (3), regardless of whether the order was made before or after section 30 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* came into force. 2020, c. 18, Sched. 6, s. 30.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 30 - not in force

PART III TRIBUNAL PROCEEDINGS

Application

18 This Part applies to proceedings before the Tribunal under this Act. 2000, c. 26, Sched. F, s. 11 (5).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

Parties

19 (1) The parties to a proceeding with respect to an application are the proponent or applicant, any person who under subsection 7.2 (3) requests the Minister to refer the application to the Tribunal, such other persons as the Tribunal considers have an interest in the application and such other persons as the Tribunal may specify having regard to the purpose of this Act. 2000, c. 26, Sched. F, s. 11 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 19 (1) of the Act is amended by striking out “subsection 7.2 (3)” and substituting “subsection 17.13 (3)”. (See: 2020, c. 18, Sched. 6, s. 31)

Public notice of hearing

(2) The Tribunal shall give notice of its hearing to the public in such manner as the Minister may direct and to such other persons as the Minister may require. 2000, c. 26, Sched. F, s. 11 (5).

Minister entitled to take part in proceedings

(3) The Minister is entitled, by counsel or otherwise, to take part in proceedings before the Tribunal. 2000, c. 26, Sched. F, s. 11 (5).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

2020, c. 18, Sched. 6, s. 31 - not in force

Hearings

20 (1) The Tribunal may render a decision without a hearing and may do so even though a matter is referred for hearing and decision. 2000, c. 26, Sched. F, s. 11 (5).

Validity of decision

(2) A decision of the Tribunal is not invalid solely on the ground that a matter was not addressed by testimony at a hearing. 2000, c. 26, Sched. F, s. 11 (5).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

Costs

21 (1) The Tribunal may award the costs of a proceeding before it. 2000, c. 26, Sched. F, s. 11 (5).

Payment

(2) The Tribunal may order to whom and by whom the costs are to be paid. 2000, c. 26, Sched. F, s. 11 (5).

Assessment

(3) The Tribunal may fix the amount of the costs or direct that the amount be assessed and it may direct the scale according to which they are to be assessed and by whom they are to be assessed. 2000, c. 26, Sched. F, s. 11 (5).

Considerations not limited

(4) In awarding costs, the Tribunal is not limited to the considerations that govern awards of costs in any court. 2000, c. 26, Sched. F, s. 11 (5).

Application

(5) This section applies despite sections 17.1 and 32 of the *Statutory Powers Procedure Act*. 2000, c. 26, Sched. F, s. 11 (5).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

Notice of decision

22 The Tribunal shall give a copy of its decision on an application to the Minister, the parties, each person who submits comments under subsection 7.2 (2), any person appointed under section 7 of the *Environmental Review Tribunal Act, 2000* and the clerk of each municipality in which the undertaking is to be carried out. 2000, c. 26, Sched. F, s. 11 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 22 of the Act is amended by striking out “subsection 7.2 (2)” and substituting “subsection 17.13 (2)” and by striking out “undertaking” and substituting “project”. (See: 2020, c. 18, Sched. 6, s. 32)

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

2020, c. 18, Sched. 6, s. 32 - not in force

Procedure

23 Except as otherwise provided in this Act, the *Statutory Powers Procedure Act* applies to the proceedings of the Tribunal. 2000, c. 26, Sched. F, s. 11 (5).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

Decisions final

23.1 Subject to section 11.2, a decision of the Tribunal is final and not subject to appeal, and a decision of the Tribunal shall not be altered or set aside in an application for judicial review or in any other proceeding unless the decision is patently unreasonable. 2000, c. 26, Sched. F, s. 11 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 23.1 of the Act is amended by striking out “Subject to section 11.2” at the beginning and substituting “Subject to section 17.22”. (See: 2020, c. 18, Sched. 6, s. 33)

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (5) - 06/12/2000

2020, c. 18, Sched. 6, s. 33 - not in force

PART IV PROVINCIAL OFFICERS

Designation of provincial officers

24 (1) The Minister may designate in writing one or more public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or other persons as provincial officers for the purposes of any section or Part of this Act or any regulation or section of any regulation made under this Act that is referred to in the designation and in a designation may limit the authority of a provincial officer in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. E.18, s. 24 (1); 2006, c. 35, Sched. C, s. 34 (1).

Certificate of designation

(2) The Minister shall issue to every provincial officer a certificate of his or her designation and every provincial officer, in the execution of his or her duties under this Act and the regulations, shall produce his or her certificate of designation upon request. R.S.O. 1990, c. E.18, s. 24 (2).

Section Amendments with date in force (d/m/y)

2006, c. 35, Sched. C, s. 34 (1) - 20/08/2007

Powers of provincial officer

25 (1) Where a provincial officer has reasonable grounds for believing that it is necessary, for the purpose of the administration of this Act and the regulations, he or she may, upon production of his or her certificate of designation, enter at any reasonable time any building, other than a dwelling, or any structure, machine, vehicle, land, water or air and make or require to be made such surveys, examinations, investigations, tests and inquiries, as he or she considers necessary for such purpose, including examinations of books, records and documents and may make, take and remove or may require to be made, taken or removed samples, copies or extracts. R.S.O. 1990, c. E.18, s. 25 (1); 2020, c. 18, Sched. 6, s. 34.

Order authorizing

(2) Where a justice of the peace is satisfied, upon an application made without notice by a provincial officer, that there is reasonable ground for believing that it is necessary to enter any building, including a dwelling, structure, machine, vehicle, land, water or air for the administration of this Act or the regulations, the justice of the peace may issue an order authorizing a provincial officer to enter therein or thereon and to make or require to be made such surveys, examinations, investigations, tests and inquiries and to take the other actions mentioned in subsection (1) but every such entry, survey, examination, investigation, test, inquiry and other such action shall be made or taken between sunrise and sunset unless the justice of the peace authorizes the provincial officer, by the order, to so act at another time. R.S.O. 1990, c. E.18, s. 25 (2); 2009, c. 33, Sched. 15, s. 3 (1).

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 15, s. 3 (1) - 15/12/2009

2020, c. 18, Sched. 6, s. 34 - 21/07/2020

Obstruction of provincial officer

26 No person shall hinder or obstruct a provincial officer in the lawful performance of his or her duties or knowingly furnish a provincial officer with false information or refuse to furnish him or her with information required for the purposes of this Act and the regulations. R.S.O. 1990, c. E.18, s. 26.

Matters confidential

27 (1) Every provincial officer shall preserve secrecy in respect of all matters that come to his or her knowledge in the course of any survey, examination, test or inquiry under this Act or the regulations and shall not communicate any such matter to any person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his or her counsel; or
- (c) with the consent of the person to whom the information relates. R.S.O. 1990, c. E.18, s. 27 (1); 2009, c. 33, Sched. 15, s. 3 (2).

Idem

(2) Except in a proceeding under this Act or the regulations, no provincial officer shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him or her in the course of any survey, examination, test or inquiry under this Act or the regulations. R.S.O. 1990, c. E.18, s. 27 (2); 2009, c. 33, Sched. 15, s. 3 (2).

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 15, s. 3 (2) - 15/12/2009

PART V ADMINISTRATION

Policy guidelines

27.1 The Minister may issue policy guidelines concerning the protection, conservation and wise management of the environment and the Tribunal shall consider the guidelines in making decisions under this Act. 1996, c. 27, s. 7; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 7 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

Application to Divisional Court

28 The Minister, in addition to any other remedy and to any penalty imposed by law, may apply to the Divisional Court for an order,

- (a) enjoining any act to proceed with an undertaking contrary to this Act; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 28 (a) of the Act is amended by striking out “an undertaking” and substituting “an undertaking or a designated project”. (See: 2020, c. 18, Sched. 6, s. 35 (1))

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 28 (a) of the Act is amended by striking out “an undertaking or”. (See: 2020, c. 18, Sched. 6, s. 35 (2))

- (b) invalidating any document issued contrary to subsection 12.2 (2) or (6) or 15.1.2 (2) or (6),

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 28 (b) of the Act is amended by striking out “subsection 12.2 (2) or (6) or 15.1.2 (2) or (6)” at the end and substituting “subsection 15.1.2 (2) or (6), 17.27 (2) or (6) or 17.30 (2) or (6)”. (See: 2020, c. 18, Sched. 6, s. 35 (4))

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 28 (b) of the Act is amended by striking out “15.1.2 (2) or (6)”. (See: 2020, c. 18, Sched. 6, s. 35 (5))

and the court may make the order on such conditions as the court considers proper. R.S.O. 1990, c. E.18, s. 28; 1996, c. 27, s. 8; 2000, c. 26, Sched. E, s. 2 (8); 2020, c. 18, Sched. 6, s. 35 (3).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 8 - 01/01/1997

2000, c. 26, Sched. E, s. 2 (8) - 06/12/2000

2020, c. 18, Sched. 6, s. 35 (1, 2, 4, 5) - not in force; 2020, c. 18, Sched. 6, s. 35 (3) - 21/07/2020

29 REPEALED: 1996, c. 27, s. 9.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 9 - 01/01/1997

Record

30 (1) The Director shall maintain a record for every undertaking in respect of which an application is submitted under Part II. 1996, c. 27, s. 10 (1); 2020, c. 18, Sched. 6, s. 36 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 30 (1) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 36 (2))

Record

(1) The Director shall maintain a record for every project in respect of which an application is submitted under Part II.3. 2020, c. 18, Sched. 6, s. 36 (2).

Same

(1.1) The record consists of the following documents:

1. The proposed and the approved terms of reference.
2. The environmental assessment.
3. The Ministry review of the environmental assessment.
4. All comments submitted under subsections 6.4 (2) and 7.2 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 of subsection 30 (1.1) of the Act is amended by striking out “subsections 6.4 (2) and 7.2 (2)” at the end and substituting “subsections 17.9 (2) and 17.13 (2)”. (See: 2020, c. 18, Sched. 6, s. 36 (4))

5. All decisions of the Director, the Minister and the Tribunal in relation to the application, together with the reasons for the decisions.
6. All notices given in respect of the application.
7. Such other documents as the Director or Minister considers appropriate. 1996, c. 27, s. 10 (1); 2000, c. 26, Sched. F, s. 11 (6); 2020, c. 18, Sched. 6, s. 36 (3).

Same

(2) The Director shall maintain a record for the following matters:

1. A proposed order under section 3.1.
2. A proposed declaration under section 3.2.
3. An undertaking in respect of which an order under section 16 is proposed. 1996, c. 27, s. 10 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 of subsection 30 (2) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 36 (5))

3. An undertaking in respect of which an order under section 16 is proposed or a Part II.4 project in respect of which an order under section 17.31 is proposed.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 of subsection 30 (2) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 36 (6))

3. A Part II.4 project in respect of which an order under section 17.31 is proposed.

Inspection

(3) Upon request, the Director shall make available on a website or in such other manner as the Director considers appropriate any record referred to in this section including any document that forms part of the record and shall make a document available as soon as practicable after a document is issued or received. 2020, c. 18, Sched. 6, s. 36 (7).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 10 (1, 2) - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2020, c. 18, Sched. 6, s. 36 (1, 3, 7) - 21/07/2020; 2020, c. 18, Sched. 6, s. 36 (2, 4-6) - not in force

Powers and duties of Minister

31 (1) The Minister, for the purposes of the administration and enforcement of this Act and the regulations may,

- (a) conduct research with respect to the environment or environmental assessments;
- (b) conduct studies of the quality of the environment;
- (c) conduct studies of environmental planning or environmental assessments designed to lead to the wise use of the environment by humans;
- (d) convene conferences and conduct seminars and educational and training programs with respect to the environment or environmental assessments;
- (e) gather, publish and disseminate information with respect to the environment or environmental assessments;
- (f) make grants and loans for research or the training of persons with respect to the environment or environmental assessments in such amounts and upon such conditions as the Minister, subject to the approval of the Lieutenant Governor in Council, may determine;
- (g) appoint committees to perform such advisory functions as the Minister considers advisable;
- (h) make such investigations, surveys, examinations, tests and other arrangements as he or she considers necessary; and
- (i) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person with respect to the environment or environmental assessments. R.S.O. 1990, c. E.18, s. 31; 1993, c. 27, Sched; 1996, c. 27, s. 11 (1); 2020, c. 18, Sched. 6, s. 37 (1).

Delegation

(2) Subject to subsection (3), the Minister may delegate to an employee or class of employees in the Ministry any power conferred or duty imposed on the Minister under this Act and may impose limitations, conditions and requirements on the delegation. 1996, c. 27, s. 11 (2).

Same

(3) The Minister shall not delegate the following powers:

1. REPEALED: 2001, c. 9, Sched. G, s. 3 (6).
2. The power to make decisions under subsection 9 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 2 of subsection 31 (3) of the Act is amended by striking out “subsection 9 (1)” at the end and substituting “subsection 17.15 (1)”. (See: 2020, c. 18, Sched. 6, s. 37 (2))

3. The power to refer decisions or matters to the Tribunal.
- 3.1 The power to review decisions of the Tribunal under subsections 11.2 (1) and (1.1).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3.1 of subsection 31 (3) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 37 (4))

- 3.1 The power to review decisions of the Tribunal under subsections 17.22 (1) and (2).
4. The power under section 11.4 to reconsider a decision. However, the Minister may make a delegation to the Tribunal as provided in that section or in respect of the power to issue an order under subsection 11.4 (3.1).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 4 of subsection 31 (3) of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 37 (5))

4. The power under section 17.24 to reconsider a decision. However, the Minister may make a delegation to the Tribunal as provided in that section or in respect of the power to issue an order under subsection 17.24 (4).
5. The power to amend a class environmental assessment under subsection 15.4 (1). 1996, c. 27, s. 11 (2); 2000, c. 26, Sched. F, s. 11 (6); 2001, c. 9, Sched. G, s. 3 (6); 2019, c. 9, Sched. 6, s. 8; 2020, c. 18, Sched. 6, s. 37 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 5 of subsection 31 (3) of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 37 (6))

Same

(4) The delegation must be made in writing. 1996, c. 27, s. 11 (2).

Same

(5) An employee shall be deemed to be acting in accordance with the delegation when he or she is purporting to exercise a delegated power or to perform a delegated duty. 1996, c. 27, s. 11 (2).

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991; 1996, c. 27, s. 11 (1, 2) - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

2001, c. 9, Sched. G, s. 3 (6) - 29/06/2001

2019, c. 9, Sched. 6, s. 8 - 06/06/2019

2020, c. 18, Sched. 6, s. 37 (1, 3) - 21/07/2020; 2020, c. 18, Sched. 6, s. 37 (2, 4-6) - not in force

Appointment of Directors

31.1 (1) The Minister may appoint one or more employees in the Ministry to act as Director under this Act. 1996, c. 27, s. 12.

Same, classes of employee

(2) The Minister may appoint the members of one or more classes of employees in the Ministry to act as Director under this Act. 1996, c. 27, s. 12.

Restrictions

(3) The Minister may limit an appointment such that the person appointed may act only under such provisions of this Act or the regulations as may be specified in the appointment and may impose other limitations, conditions and requirements on the appointment. 1996, c. 27, s. 12.

Same

(4) An appointment must be made in writing. 1996, c. 27, s. 12.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 12 - 01/01/1997

Protection from personal liability

32 (1) No action or other proceeding may be instituted against the following persons for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of such a duty or authority:

1. Any current or former member of the Executive Council.
2. Any current or former officer, employee or agent of or adviser to the Crown.
3. Any current or former mediator appointed under this Act.
4. REPEALED: 2020, c. 18, Sched. 6, s. 38.

2006, c. 35, Sched. C, s. 34 (2); 2009, c. 33, Sched. 2, s. 27; 2020, c. 18, Sched. 6, s. 38.

Exception

(1.1) Subsection (1) does not apply in the case of an application for judicial review or an action or proceeding that is specifically provided for under this or any other Act with respect to a person referred to in that subsection. 2006, c. 35, Sched. C, s. 34 (2).

Crown not relieved of liability

(2) Subsection (1) does not, by reason of subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 2019, c. 7, Sched. 17, s. 66.

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000
2006, c. 35, Sched. C, s. 34 (2) - 20/08/2007
2009, c. 33, Sched. 2, s. 27 (1, 2) - 15/12/2009
2019, c. 7, Sched. 17, s. 66 - 01/07/2019
2020, c. 18, Sched. 6, s. 38 - 21/07/2020
33 REPEALED: 1996, c. 27, s. 13.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 13 - 01/01/1997

False information

34 No person shall knowingly give false information in any application, return or statement made to the Minister, the Tribunal, an employee or appointee of the Tribunal, a provincial officer or any employee in the Ministry in respect of any matter under this Act or the regulations. R.S.O. 1990, c. E.18, s. 34; 2000, c. 26, Sched. F, s. 11 (6); 2006, c. 35, Sched. C, s. 34 (3).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000
2006, c. 35, Sched. C, s. 34 (3) - 20/08/2007

Certificates, etc., as evidence

35 In any prosecution, proceeding or hearing under this Act or the regulations, the production of,

- (a) a certificate or report of an analyst in the employ of the Crown in right of Ontario designated by the Minister as to the analysis, ingredients, quality, quantity or temperature of any material, whether solid, liquid or gas or any combination of them; or
- (b) any document under this Act purporting to be signed by the Minister, a delegate of the Minister, a Director or by or for the Tribunal, or any certified copy thereof,

is proof, in the absence of evidence to the contrary, of the facts stated therein and of the authority of the person making the document without any proof of appointment or signature. R.S.O. 1990, c. E.18, s. 35; 1996, c. 27, s. 14; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 14 - 01/01/1997
2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

Service, etc., of documents

36 (1) A document that must be given to a person or served under this Act is sufficiently given or served,

- (a) by personal delivery to the person;
 - (b) using regular mail delivery addressed to the person at the most recent address on the records of the Ministry or the Tribunal, as the case may be;
 - (c) using any method of mail delivery that permits the delivery to be verified;
 - (d) by electronic transmission of the document, if the person is equipped to receive such transmissions;
 - (e) by telephone transmission of a facsimile of the document, if the person is equipped to receive such transmissions.
- 1996, c. 27, s. 15 (1); 2000, c. 26, Sched. F, s. 11 (6).

Deemed receipt, regular mail

(2) A document delivered using regular mail delivery shall be deemed to be received on the fifth day after it is mailed. 1996, c. 27, s. 15 (1).

Same, electronic or telephone transmission

(3) A document delivered by electronic or telephone transmission shall be deemed to be received on the day after it is sent, unless that day is a holiday in which case the document shall be deemed to be received on the next day that is not a holiday. 1996, c. 27, s. 15 (1).

Failure to receive document

(4) If a person acting in good faith does not, through absence, accident, illness or other cause beyond the person's control, receive the document until a later date than the deemed day of receipt, subsection (2) or (3), as the case may be, does not apply. 1996, c. 27, s. 15 (1).

Inspection of documents

(5) The making available by the Director of a copy or reproduction made by any means of a document is compliance with the provisions of this Act authorizing the inspection of the document. R.S.O. 1990, c. E.18, s. 36 (5); 1996, c. 27, s. 15 (2).

Destruction of certain documents

(6) Despite any provision of this Act, a document may be destroyed by or under the authority of the Minister when it has been completely recorded or copied and the recording or copy is retained for the purpose of inspection under this section. R.S.O. 1990, c. E.18, s. 36 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 15 (1, 2) - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

Boards excluded

37 Despite the definition of "municipality" in subsection 1 (1), if a notice or document is required to be given under this Act to the clerk of a municipality, the reference to municipality does not include local boards, as defined in the *Municipal Affairs Act*, a corporation incorporated by a municipality under sections 9, 10 and 11 of the *Municipal Act, 2001* in accordance with section 203 of that Act or a corporation incorporated by the City of Toronto under sections 7 and 8 of the *City of Toronto Act, 2006* in accordance with sections 148 and 154 of that Act or a predecessor of those sections in either Act or any other board exercising any power with respect to municipal or school purposes in an unorganized territory or unsurveyed territory. 2006, c. 32, Sched. C, s. 18.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 18 - 01/01/2007

Notice by publication

37.1 (1) This section applies if the Minister, the Tribunal or the Director considers it to be impracticable to give a notice or a document personally to any or all of the persons entitled to receive it. 1996, c. 27, s. 16; 2000, c. 26, Sched. F, s. 11 (6).

Notices

(2) A notice may be given by public advertisement or by such other method as the Minister, the Tribunal or the Director considers appropriate. 1996, c. 27, s. 16; 2000, c. 26, Sched. F, s. 11 (6).

Notice of contents of documents

(3) Reasonable notice of the contents of a document may be given by public advertisement or such other method as the Minister, the Tribunal or the Director considers appropriate. 1996, c. 27, s. 16; 2000, c. 26, Sched. F, s. 11 (6).

Deemed receipt

(4) Notice given by public advertisement shall be deemed to be received on the first day on which it is published. Notice given by another method shall be deemed to be received on the day specified by the Minister, the Tribunal or the Director. 1996, c. 27, s. 16; 2000, c. 26, Sched. F, s. 11 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 16 - 01/01/1997

2000, c. 26, Sched. F, s. 11 (6) - 06/12/2000

Consolidation of notices

37.2 A notice to be given under this Act may be consolidated with a notice under another Act concerning the same or a related matter. 1996, c. 27, s. 16.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 16 - 01/01/1997

Offence

38 Every person, whether as principal or agent, or an employee of either of them, who contravenes any provision of this Act or the regulations or fails to comply with an order or a term or condition of an approval issued or given under this Act is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$10,000 and on a subsequent conviction to a fine of not more than \$25,000 for every day or part thereof upon which the offence occurs or continues. R.S.O. 1990, c. E.18, s. 38.

PART V.1 TRANSITION

Regulations re transitional matters

38.1 (1) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to deal with issues arising out of the amendments to this Act made by Schedule 6 to the *COVID-19 Economic Recovery Act, 2020*. 2020, c. 18, Sched. 6, s. 39.

Same

- (2) A regulation made under subsection (1) may, without limitation,
- (a) provide that specified provisions of this Act or regulations as they read immediately before specified provisions of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* came into force continue to apply to a project despite amendments made by Schedule 6 to the *COVID-19 Economic Recovery Act, 2020*;
 - (b) provide that all or part of an approved class environmental assessment continues to apply to a project after the day the approval of the class environmental assessment is revoked;
 - (c) exempt a designated project from any provision of this Act or the regulations. 2020, c. 18, Sched. 6, s. 39.

Conflict

(3) A regulation made under this section prevails over any provision of this Act specifically mentioned in the regulation. 2020, c. 18, Sched. 6, s. 39.

Retroactive effect

(4) A regulation made under this section is, if it so provides, effective with reference to a period before it is filed. 2020, c. 18, Sched. 6, s. 39.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 39 - 21/07/2020

Termination of request for s. 16 order

38.2 (1) Subject to subsection (2), any request for the Minister to make an order under section 16 of Part II.1 that was made before the day the *COVID-19 Economic Recovery Act, 2020* receives Royal Assent and in respect of which no decision has been made as of that day shall be terminated on that day. 2020, c. 18, Sched. 6, s. 39.

Exception

(2) Subsection (1) does not apply in respect of a request for the Minister to make an order under section 16 of Part II.1 on the grounds that the order may prevent, mitigate or remedy adverse impacts on the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2020, c. 18, Sched. 6, s. 39.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 39 - 21/07/2020

Note: On a day to be named by proclamation of the Lieutenant Governor, Part V.1 of the Act is amended by adding the following section: (See: 2020, c. 18, Sched. 6, s. 40)

Deemed Part II.3 projects, approval

38.3 If approval was given to proceed with an undertaking under Part II as it read before the day section 20 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force or under the predecessor to that Part and the approval was in effect immediately before that day,

- (a) the undertaking is deemed to be a Part II.3 project; and
- (b) the approval is deemed to be an approval under Part II.3. 2020, c. 18, Sched. 6, s. 40.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 40 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, Part V.1 of the Act is amended by adding the following sections: (See: 2020, c. 18, Sched. 6, s. 41)

Amendment, etc., by order, transition to Part II.4

38.4 (1) If the Minister considers it appropriate to amend or revoke an approval of a class environmental assessment or amend an approved class environmental assessment in order to facilitate the transition of some or all of the activities covered by the approved class environmental assessment from Part II.1 to Part II.4, the Minister may amend or revoke the approval or amend the approved class environmental assessment. 2020, c. 18, Sched. 6, s. 41.

Same

(2) Section 15.4 does not apply in respect of an amendment under subsection (1). 2020, c. 18, Sched. 6, s. 41.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 41 - not in force

Deemed Part II.4 projects

38.5 If a proponent was authorized to proceed with an undertaking in accordance with an approved class environmental assessment under Part II.1 on or before the day the approval of the class environmental assessment was revoked, then after that day,

- (a) the undertaking is deemed to be a Part II.4 project; and
- (b) the proponent is deemed to have satisfied all the prescribed requirements for commencing a Part II.4 project. 2020, c. 18, Sched. 6, s. 41.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 41 - not in force

Orders under s.16

38.6 (1) If, before the day Part II.1 is repealed by section 26 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020*, an order was made under subsection 16 (1) of that Part requiring the proponent of an undertaking to comply with Part II before proceeding with the undertaking, then, on and after the day Part II.1 is repealed,

- (a) the order is deemed to be an order made under subsection 17.31 (1) of Part II.4 declaring the undertaking to be a Part II.3 project;
- (b) the undertaking is deemed to be a Part II.3 project; and
- (c) Part II.3 applies with respect to the project. 2020, c. 18, Sched. 6, s. 41.

Same

(2) If, before the day Part II.1 is repealed by section 26 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020*, an order was made under subsection 16 (3) of that Part imposing conditions on an undertaking referred to in section 15 that is deemed to be a Part II.4 project under section 38.5, then, on and after the day Part II.1 is repealed, the conditions imposed in the order made under subsection 16 (3) shall continue to apply with respect to the deemed Part II.4 project. 2020, c. 18, Sched. 6, s. 41.

Section Amendments with date in force (d/m/y)

2020, c. 18, Sched. 6, s. 41 - not in force

PART VI REGULATIONS

Regulations

39 The Lieutenant Governor in Council may make regulations,

- (a) defining any enterprise or activity as a major commercial or business enterprise or activity;
- (b) defining enterprises or activities as classes of major commercial or business enterprises or activities;
- (c) defining any body other than a municipality as a public body;
- (d) designating any major commercial or business enterprise or activity or class of major commercial or business enterprises or activities as an undertaking or class of undertakings to which this Act applies;
- (e) designating any proposal, plan or program or any class of proposals, plans or programs in respect of any major commercial or business enterprise or activity or any class of major commercial or business enterprises or activities as an undertaking or class of undertakings to which this Act applies;
- (f) exempting any person, class of persons, undertaking or class of undertakings from this Act, the regulations, any provision of this Act or the regulations or any matter provided for under this Act, and imposing conditions with respect to the exemptions;

Note: On a day to be named by proclamation of the Lieutenant Governor, section 39 of the Act is amended by adding the following clause: (See: 2020, c. 18, Sched. 6, s. 42 (3))

- (f.1) defining “substantially commenced” for the purposes of subsection 11.5 (2);
- (g) designating as an undertaking or a class of undertakings to which the Act applies despite an exemption authorized under clause (f) or subsection 15.3 (3) or (4),
 - (i) an enterprise or a class of enterprises,
 - (ii) an activity or a class of activities,
 - (iii) a proposal, plan or program or a class of proposals, plans or programs in respect of an enterprise, activity or class thereof,if it is carried on by or on behalf of Her Majesty in right of Ontario, by one or more public bodies or by one or more municipalities;
- (g.1) providing that Part II of this Act or specific provisions of an approved class environmental assessment apply in respect of an undertaking designated in a regulation made pursuant to clause (g) and requiring compliance with a Part or process;
- (h) providing for forms and for their use;
- (i) prescribing the method of determining each deadline that is to be prescribed under this Act;
- (j) prescribing or respecting any matter that this Act refers to as a matter prescribed by the regulations or as otherwise dealt with by the regulations. R.S.O. 1990, c. E.18, s. 39; 1996, c. 27, s. 17; 2009, c. 33, Sched. 15, s. 3 (3); 2019, c. 9, Sched. 6, s. 9 (1); 2020, c. 18, Sched. 6, s. 42 (1, 2, 4, 5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 39 of the Act is repealed and the following substituted: (See: 2020, c. 18, Sched. 6, s. 42 (6))

Regulations, general

39 The Lieutenant Governor in Council may make regulations,

- (a) governing anything that is required or permitted to be prescribed or that is required or permitted to be done by, or in accordance with, the regulations or as authorized, specified or provided in the regulations;
- (b) defining any body as a public body for the purposes of this Act;
- (c) defining “ancillary” for the purposes of subsections 3 (3) and (4);
- (d) defining “substantially commenced” for the purposes of subsection 17.25 (2);
- (e) exempting any person, class of persons, undertaking, class of undertakings, project or class of project from this Act, the regulations, any provision of this Act or the regulations or any matter provided for under this Act, and imposing conditions with respect to the exemptions;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 39 (e) of the Act is amended by striking out “undertaking, class of undertakings”. (See: 2020, c. 18, Sched. 6, s. 42 (7))

- (f) authorizing the Director to extend any deadline or period of time established under this Act, other than a deadline or period of time established under section 16.1 or subsection 17.31 (5), in such circumstance as may be prescribed or in such circumstances as the Director considers appropriate, whether or not the deadline has passed or the period has expired;
- (g) providing that an approved class environmental assessment or a specific provision of an approved class environmental assessment applies in respect of an undertaking, class or undertakings proponent or class of proponents;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 39 (g) of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 42 (8))

- (h) prescribing the method of determining any deadline that is to be prescribed under this Act;
- (i) respecting anything that the Lieutenant Governor in Council considers necessary or advisable for the purposes of this Act. 2020, c. 18, Sched. 6, s. 42 (6).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 17 - 01/01/1997

2009, c. 33, Sched. 15, s. 3 (3) - 15/12/2009

2019, c. 9, Sched. 6, s. 9 (1) - 06/06/2019; 2019, c. 9, Sched. 6, s. 9 (2) - no effect - see 2020, c. 18, Sched. 6, s. 60 (3) - 21/07/2020

2020, c. 18, Sched. 6, s. 42 (1, 2, 4, 5) - 21/07/2020; 2020, c. 18, Sched. 6, s. 42 (3, 6-8) - not in force

40 REPEALED: 1996, c. 27, s. 18.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 18, Sched. 6, s. 43)

Regulations, Part II.4

- 40 (1)** The Lieutenant Governor in Council may make regulations governing Part II.4 projects, including regulations,
- (a) governing the prescribed requirements for commencing a Part II.4 project that are referred to in subsection 17.29 (1), including the environmental assessment process that must be completed before proceeding with the project;
 - (b) respecting the commencement of Part II.4 projects and defining “commencing” for the purposes of subsection 17.29 (1);
 - (c) specifying a time period that a person must wait before proceeding with a Part II.4 project after the prescribed requirements for commencing the project have been satisfied;
 - (d) specifying a deadline for substantially commencing a Part II.4 project;
 - (e) governing the prescribed requirements for proceeding with a Part II.4 project that are referred to in subsection 17.29 (5);
 - (f) requiring studies and consultations to be carried out in relation to Part II.4 projects and respecting the manner in which the studies and consultations are to be carried out;
 - (g) requiring information in relation to Part II.4 projects and in relation to the studies and consultations referred to in clause (f) to be made available to the public;
 - (h) requiring proponents of a Part II.4 project to maintain records and documents in relation to the project;
 - (i) requiring persons to satisfy prescribed conditions in order to mitigate any adverse effects of a Part II.4 project;
 - (j) specifying changes that may be made to a Part II.4 project after the prescribed requirements for commencing the project have been satisfied and specifying rules and procedures that persons must follow in order to make the changes, including complying with such conditions as may be specified by the Director;
 - (k) governing orders that may be made by the Minister under section 17.31, including prescribing deadlines for the making of such orders and respecting amendments that may be made under subsection 17.31 (15) to an order made under subsection 17.31 (3);
 - (l) respecting any other matter that the Lieutenant Governor may consider necessary or advisable for the purposes of this Part. 2020, c. 18, Sched. 6, s. 43.

Same

(2) A regulation under clause (1) (a) respecting the environmental assessment process that must be completed before proceeding with a Part II.4 project may require persons to,

- (a) consider alternatives to a proposed project and alternative methods of carrying out a project;
- (b) conduct studies as part of an environmental assessment;
- (c) carry out consultations with the public, aboriginal communities, government bodies and municipalities;
- (d) give notice to the public or to specified persons and make information available to the public with respect to a proposed project, the studies referred to in clause (b) or the consultations required under clause (c);
- (e) maintain records and documents in relation to an environmental assessment. 2020, c. 18, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 18 - 01/01/1997

2020, c. 18, Sched. 6, s. 43 - not in force

Scope of regulations

41 (1) Any regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation. R.S.O. 1990, c. E.18, s. 41.

Same

(2) The application of a regulation may be restricted to any class of person, thing, matter or activity. 1996, c. 27, s. 19.

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 19 - 01/01/1997

Adoption of documents in regulations

42 (1) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any document, including a code, formula, standard, protocol or procedure, and may require compliance with any document so adopted. 2010, c. 16, Sched. 7, s. 1 (1).

Rolling incorporation by reference

(1.1) The power to adopt by reference and require compliance with a document in subsection (1) includes the power to adopt a document as it may be amended from time to time. 2010, c. 16, Sched. 7, s. 1 (1).

Same

(2) The adoption by reference of an amendment to a document comes into effect upon publication of a notice of the amendment in *The Ontario Gazette* or in the registry under the *Environmental Bill of Rights, 1993*. 1996, c. 27, s. 20; 2010, c. 16, Sched. 7, s. 1 (2).

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 20 - 01/01/1997

2010, c. 16, Sched. 7, s. 1 (1, 2) - 25/10/2010

Application of regulations

43 (1) A regulation is not effective with respect to an enterprise or activity that is commenced before the regulation comes into force. R.S.O. 1990, c. E.18, s. 43 (1).

Idem

(2) Despite subsection (1), a regulation is effective with respect to,

- (a) any major commercial or business enterprise or activity that is commenced after the 16th day of January, 1977 and that is being carried on or is not completed when the regulation comes into force;
- (b) a significant change made in any major commercial or business enterprise or activity after the 16th day of January, 1977 and that is being carried on or is not completed before the regulation comes into force; or
- (c) any proposal, plan or program in respect of any major commercial or business enterprise or activity or any class of major commercial or business enterprises or activities proposed or made before the coming into force of the regulation

whether the proposal, plan or program is proposed or made before or after the 16th day of January, 1977. R.S.O. 1990, c. E.18, s. 43 (2).

Idem

(3) Despite subsection (1), a regulation made under clause 39 (f) or (g) is effective whether the enterprise or activity, or class of enterprises or activities, or proposal, plan or program or class of proposals, plans or programs in respect of any of them is commenced, carried on, made or proposed before or after the 20th day of October, 1976. R.S.O. 1990, c. E.18, s. 43 (3); 1996, c. 27, s. 21.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 43 of the Act is repealed. (See: 2020, c. 18, Sched. 6, s. 44)

Section Amendments with date in force (d/m/y)

1996, c. 27, s. 21 - 01/01/1997

2020, c. 18, Sched. 6, s. 44 - not in force

Français

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