

## 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”)
  - “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; (“ministre”)

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

“municipality” 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”)

“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”)

“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”)

“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”)

“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.

#### **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).

#### **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.

#### **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).

#### **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).

#### **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 in order to facilitate the effective operation of the requirements of both jurisdictions. 1996, c. 27, s. 2.

#### **Declaration of non-application**

(3) The Minister may by order declare that this Act does not apply with respect to the undertaking. 1996, c. 27, s. 2.

#### **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.

#### **Reasons**

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

#### **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.

### **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).

#### **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.

#### **The Crown**

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

## **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.

#### **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.

#### **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.

**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.

**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.

**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.

**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.

**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).

**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.

**Same**

(3) The Director may extend the deadline for completing the review if he or she considers that there is a compelling reason (which is unusual, unexpected or urgent) to do so. The Director shall notify such persons as he or she considers appropriate if the deadline is extended. 1996, c. 27, s. 3.

**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. 1996, c. 27, s. 3.

**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. 1996, c. 27, s. 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).

**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.

#### **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.

### 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.

**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,
  - (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.

**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.

**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).

**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).

**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).

**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).

**Validity of decisions**

(4) A decision of the Minister is not invalid solely on the ground that the decision was not made before the applicable deadline. 1996, c. 27, s. 3.

**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).

**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).

**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).

**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).

**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).

**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).

**Amendment**

(4) A decision approving a proponent to proceed with an undertaking may be amended or revoked in accordance with such rules and subject to such restrictions as may be prescribed. 1996, c. 27, s. 3.

**Non-application**

(5) Section 21.2 (power to review) of the *Statutory Powers Procedure Act* does not apply with respect to decisions made under this Act. 1996, c. 27, s. 3.

## OTHER MATTERS

**Proposed change to an undertaking**

**12.** If a proponent wishes to change an undertaking after receiving approval to proceed with it, the proposed change to the undertaking shall be deemed to be an undertaking for the purposes of this Act. 1996, c. 27, s. 3.

**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.

**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 or approve 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.

**Exception**

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

**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.

**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.

**Transition**

**12.4** (1) 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.

**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.

**PART II.1  
CLASS ENVIRONMENTAL ASSESSMENTS**

**Approval for class of undertakings**

**13.** (1) A person may apply to the Minister to approve a class environmental assessment with respect to a class of undertakings. 1996, c. 27, s. 3.

**Application**

(2) The application consists of the proposed terms of reference submitted under subsection 13.2 (1) and the class environmental assessment subsequently prepared in accordance with section 14 and submitted under subsection 6.2 (1). 1996, c. 27, s. 3.

**Prohibition**

(3) No person shall proceed with an undertaking with respect to which an approved class environmental assessment applies,

- (a) unless the person does so in accordance with the class environmental assessment; or
- (b) 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).

**Obligation to consult**

**13.1** When preparing proposed terms of reference and a proposed class environmental assessment, the applicant shall consult with such persons as may be interested. 1996, c. 27, s. 3.

**Terms of reference**

**13.2** (1) The applicant shall give the Ministry proposed terms of reference governing the preparation of the class environmental assessment. 1996, c. 27, s. 3.

**Same**

- (2) The proposed terms of reference must,
- (a) indicate that the class environmental assessment will be prepared in accordance with the requirements set out in subsection 14 (2);
  - (b) indicate that the class environmental assessment will be prepared in accordance with such requirements as may be prescribed for the type of undertaking to which it relates; or
  - (c) set out in detail the requirements for the preparation of the class environmental assessment. 1996, c. 27, s. 3.

**Same**

(3) Subsections 6 (3) to (7) apply with respect to the terms of reference with necessary modifications. 1996, c. 27, s. 3; 2001, c. 9, Sched. G, s. 3 (5).

**Preparation of class environmental assessment**

**14.** (1) The applicant shall prepare the class environmental assessment in accordance with the approved terms of reference. 1996, c. 27, s. 3.

**Contents**

- (2) Subject to subsection (3), the proposed class environmental assessment must contain the following information:
- 1. A description of the class of undertakings to which it applies.
  - 2. A description of the reasons for using a class environmental assessment with respect to undertakings in the class.
  - 3. A description of the similarities and differences to be expected among the undertakings in the class.
  - 4. A description of the expected range of environmental effects that may result from proceeding with undertakings in the class.
  - 5. A description of measures that could be taken to mitigate against adverse environmental effects that may result from proceeding with undertakings in the class.
  - 6. A description of the process to be used by a proponent of a proposed undertaking to consult with the public and with persons who may be affected by the undertaking.
  - 7. A description of the method to be used to evaluate a proposed undertaking with respect to the matters described in paragraphs 4 to 6.
  - 8. A description of the method to be used to determine the final design of a proposed undertaking based upon the evaluation described in paragraph 7.
  - 9. Such other information as may be prescribed. 1996, c. 27, s. 3.

**Exception**

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

**Regulations**

(4) The Lieutenant Governor in Council may, by regulation, expand upon the requirements set out in paragraphs 1 to 8 of subsection (2) or provide that one or more of those paragraphs do not apply in the case of a class environmental assessment for a specified type of undertaking. 1996, c. 27, s. 3.

**Application of Part II**

**15.** Sections 6.2 to 11.4 and 12.1 apply with necessary modifications with respect to a class environmental assessment. 1996, c. 27, s. 3.

**Effect of approval**

**15.1** (1) Section 5 does not apply with respect to a proponent who proceeds with an undertaking in accordance with an approved class environmental assessment. 1996, c. 27, s. 3.

**Exception**

(2) Section 5 applies if the Minister makes an order under section 16 with respect to an undertaking. In that case, subsection 13 (3) does not apply. 1996, c. 27, s. 3.

**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.

**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 to which a class environmental assessment would otherwise apply. 1996, c. 27, s. 3.

**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.
2. Declare that the proponent has satisfied such requirements for the preparation of an environmental assessment as are specified in the order. 1996, c. 27, s. 3.

**Same, additional conditions**

(3) The Minister may by order impose conditions in addition to those imposed upon the approval of the class environmental assessment with respect to a proposed undertaking that is to proceed in accordance with the class environmental assessment. 1996, c. 27, s. 3.

**Basis for order**

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

1. The purpose of the 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. Any reasons given by a person who requests the order.
5. The mediators' report, if any, following a referral under subsection (6).
6. Such other matters as may be prescribed.
7. Such other matters as the Minister considers appropriate. 1996, c. 27, s. 3.

**Request for order**

(5) Any person may request the Minister to make an order under this section or the Minister may make an order upon his or her own initiative. 1996, c. 27, s. 3.

**Mediation**

(6) The Minister may refer a matter in connection with a request to mediation and section 8 applies with necessary modifications. 1996, c. 27, s. 3.

**Deadline after request**

(7) If the Minister is requested to make an order, the Minister shall decide before the prescribed deadline whether to do so. 1996, c. 27, s. 3.

**Refusal after request**

(8) If, after receiving a request, 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. 1996, c. 27, s. 3.

**Notice of order**

(9) 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. 1996, c. 27, s. 3.

#### **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.

## **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.

## **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).

#### **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).

#### **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).

#### **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).

#### **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).

#### **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).

#### **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).

#### **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).

## **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).

#### **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).

**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).

**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).

**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).

**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
- (b) invalidating any document issued contrary to subsection 12.2 (2) or (6),

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).

**29.** REPEALED: 1996, c. 27, s. 9.

**Record**

**30.** (1) The Director shall maintain a record for every undertaking in respect of which an application is submitted under Part II and for every application submitted under Part II.1. 1996, c. 27, s. 10 (1).

**Same**

- (1.1) The record consists of the following documents:

1. The proposed and the approved terms of reference.
2. The environmental assessment or the class environmental assessment, as the case may be.
3. The Ministry review of the environmental assessment or the class environmental assessment, as the case may be.
4. All comments submitted under subsections 6.4 (2) and 7.2 (2).
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).

**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).

**Inspection**

(3) Upon request, the Director shall make available for inspection 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 the document is issued or received. 1996, c. 27, s. 10 (2).

**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).

**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).

3. The power to refer decisions or matters to the Tribunal.
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. 1996, c. 27, s. 11 (2); 2000, c. 26, Sched. F, s. 11 (6); 2001, c. 9, Sched. G, s. 3 (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).

**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.

**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. REPEALED: 2009, c. 33, Sched. 2, s. 27 (1).
2. An employee in the Ministry.
3. A provincial officer employed under Part III of the *Public Service of Ontario Act, 2006*.
4. A public servant employed under Part III of the *Public Service of Ontario Act, 2006* who is acting under the direction of a person described in paragraph 2 or 3. 2006, c. 35, Sched. C, s. 34 (2); 2009, c. 33, Sched. 2, s. 27.

**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 subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown 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. R.S.O. 1990, c. E.18, s. 32 (2).

**33.** REPEALED: 1996, c. 27, s. 13.

**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).

**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).

#### **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).

#### **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.

#### **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).

**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.

**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 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 or the regulations or a section or portion of a section thereof and imposing conditions with respect to the exemption;
- (g) designating as an undertaking or a class of undertakings to which the Act applies despite an exemption authorized under clause (f),
  - (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;

- (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).

**40.** REPEALED: 1996, c. 27, s. 18.

**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.

**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).

**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.

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