

1989 BILL 206

First Session, 22nd Legislature, 38 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 206

ENVIRONMENTAL ASSESSMENT ACT

MR. MITCHELL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 206
Mr. Mitchell

BILL 206

1989

ENVIRONMENTAL ASSESSMENT ACT

(Assented to , 1989)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

PART I **INTERPRETATION AND APPLICATION**

Definitions

1 In this Act,

- (a) "air" includes enclosed air;
- (b) "Board" means the Environmental Assessment Board referred to in Part III;
- (c) "environment" means,
 - (i) air, land or water,
 - (ii) plant and animal life, including man,
 - (iii) the social, economic and cultural conditions that influence the life of man or a community,
 - (iv) any building, structure, machine or other device or thing made by man,
 - (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of

man, or

(vi) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Alberta;

(d) "environmental assessment", when used in relation to an undertaking, means an environmental assessment submitted pursuant to section 5(1);

(e) "land" includes enclosed land, land covered by water and subsoil;

(f) "Minister" means the Minister of the Environment;

(g) "Department" means the Department of the Environment;

(h) "municipality" has the meaning given to it in the *Municipal Government Act* and also includes 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;

(i) "person" includes a municipality, Her Majesty in right of Alberta, a Provincial agency within the meaning of the *Financial Administration Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association;

(j) "proceed" includes "carry on";

(k) "proponent" means a person who,

(i) carries out or proposes to carry out an undertaking, or

(ii) is the owner or person having charge, management or control of an undertaking;

(l) "provincial officer" means a person designated by the Minister as a provincial officer under Part IV;

(m) "public body" means a body other than a municipality that is defined as a public body by the regulations;

(n) "regulations" means the regulations made under this Act;

(o) "undertaking" means,

(i) 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 Alberta, by a public body or public bodies or by a municipality or municipalities, or

(ii) 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 subclause (i) that is designated by the regulations;

and includes highways, power transmission lines, pipelines, sewage plants and, subject to section 3(a), commercial projects.

(p) "water" means surface water and ground water, or either of them.

Purpose

2 The purpose of this Act is the betterment of the people of the whole or any part of Alberta by providing for the protection, conservation and wise management in Alberta of the environment.

Application

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 Alberta or by a public body or public bodies or by a municipality or municipalities on and after the day this Act comes into force;

(b) only on and after a day to be named by proclamation, 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.

The Crown

4 This Act binds the Crown.

PART II

ACCEPTANCE, AMENDMENT, APPROVAL

Environmental
assessment

5(1) When an undertaking to which this Act applies is proposed, the Minister shall cause an environmental assessment of the undertaking to be carried out and the proponent shall not proceed with the undertaking until

- (a) the environmental assessment has been accepted by the Minister;
- (b) the Minister has given his approval to proceed with undertaking; and
- (c) the proponent has paid all charges made pursuant to subsection (4).

Exception

(2) Subsection (1) does not prohibit a feasibility study, including research, or any action necessary to comply with this Act before the approval of the Minister is given to proceed with an undertaking.

Content of
environmental
assessment

(3) An environmental assessment shall 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; and

(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.

(4) The cost of preparing and reviewing the environmental assessment shall be charged to the proponent by the Minister.

Where licences,
etc., not to be
issued

6(1) Where an environmental assessment of an undertaking is required under this Act,

(a) a licence, permit, approval, permission or consent that is required under any statute, regulation, by-law or other requirement of the Province of Alberta, an agency thereof, a municipality or a regulatory authority, in order to proceed with the undertaking shall not be issued or granted; and

(b) if it is intended that the Province of Alberta or any agency thereof will provide a loan, a guarantee of repayment of a loan, a grant or a subsidy with respect to the undertaking, the loan, guarantee, grant or subsidy shall not be approved, made or given,

unless,

(c) the environmental assessment has been accepted by the Minister; and

(d) the Minister has given approval to proceed with the undertaking.

Exception

(2) Subsection (1) does not apply to,

(a) a licence, permit, approval, permission or consent;

(b) a loan, guarantee, grant or subsidy,

in relation to a feasibility study, including research, or for any action necessary to comply with this Act before the approval of the Minister is given to proceed with the undertaking.

Preparation of
review and notice

7(1) Where an environmental assessment of an undertaking is received by the Minister, the Minister,

- (a) shall cause a review of the assessment to be prepared; and
- (b) shall give notice of,
 - (i) the receipt of the assessment,
 - (ii) the completion of the preparation of the review,
 - (iii) the place or places where the assessment and review may be inspected, and
 - (iv) such other matters as the Minister considers necessary or advisable,

to the proponent, the clerk of each municipality in which the undertaking is being or will be carried out and, in such manner as the Minister considers suitable, to the public and to such other persons as the Minister considers necessary or advisable.

Inspection of
environmental
assessment

(2) Any person may inspect an environmental assessment of an undertaking and the review thereof in accordance with the terms of the notice referred to in subsection (1) and may, within 30 days of the giving of the notice or within such longer period as may be stated in the notice,

- (a) make written submissions to the Minister with respect to the undertaking, the environmental assessment and the review thereof; and
- (b) by written notice to the Minister, request a hearing by the Board with respect to the undertaking, the environmental assessment and the review thereof.

Matters to be
considered by the
Minister

8 The Minister, in determining whether to accept or to amend and accept an environmental assessment shall consider the purpose of this Act, the environmental assessment, the review thereof, the written submissions, if any, made with respect thereto, any reports

required by and submitted to him, and any further review that the Minister has caused to be prepared.

Notice of
acceptance of
environmental
assessment

9 Where a hearing is not required,

- (a) pursuant to section 12(2)(a); or
- (b) pursuant to section 12(2)(b) after receipt of a notice pursuant to section 7(2)(b),

and the Minister, after considering the matters set out in section 8, is of the opinion that the environmental assessment is satisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment has been prepared should or should not be given or should be given subject to terms and conditions, the Minister shall accept the assessment and give notice thereof to the proponent and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to section 7(2).

Notice of
proposal to
amend
environmental
assessment

10(1) Where a hearing is not required,

- (a) pursuant to section 12(2)(a); or
- (b) pursuant to section 12(2)(b) after receipt of a notice pursuant to section 7(2)(b),

and the Minister, after considering the matters set out in section 8, is of the opinion that the environmental assessment does not comply with this Act or the regulations, is inconclusive or is otherwise unsatisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall give notice to the proponent and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to section 7(2) that the Minister proposes to amend the environmental assessment, together with written reasons therefor including particulars of the amendments that the Minister proposes to make to the environmental assessment and, after considering any further written submissions of the proponent and of any such person, the Minister,

where a hearing is not required pursuant to section 12(2)(a) or to section 12(2)(b) after receipt of a notice pursuant to subsection 12(1), shall accept or amend and accept the environmental assessment.

Notice of amendment and acceptance of environmental assessment

(2) The Minister shall give notice of the acceptance or the amendment and acceptance of the environmental assessment pursuant to subsection (1) to the proponent, and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to section 7(2), and where the assessment is amended a copy of the assessment as amended and accepted together with written reasons therefor, to the proponent.

Minister may order research, etc., and reports

11(1) Where, before accepting an environmental assessment, the Minister is of the opinion that the environmental assessment as submitted does not comply with this Act or the regulations, is inconclusive or is otherwise unsatisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall give notice to the proponent that he proposes, by order, to require the proponent to carry out such research, investigations, studies and monitoring programs related to the undertaking in respect of which the environmental assessment is submitted as are mentioned in the notice, together with written reasons therefor.

Written submissions

(2) The Minister, after considering any written submission of the proponent made within 15 days of the giving of the notice or within such longer period as may be stated in the notice, may by order require the proponent to carry out such research, investigations, studies and monitoring programs related to the undertaking in respect of which the environmental assessment is submitted and to submit such reports thereon as the Minister considers necessary.

Notice of order

(3) The Minister shall, in such manner as the Minister considers suitable, give notice of the order to any person who has made a written submission to the Minister pursuant to section 7(2).

Reports to be incorporated in environmental assessment

(4) Upon submission of the reports to the Minister they shall be incorporated as part of the environmental assessment and the review thereof that the Minister caused to be prepared may be revised accordingly.

Notice 12(1) A notice that the Minister proposes to amend an environmental assessment shall state that the proponent or any person who has made a written submission to the Minister pursuant to section 7(2) may, by written notice delivered to the Minister within 15 days after the giving of the notice of proposal to amend, request a hearing by the Board and the proponent or the person may so require such a hearing.

Hearing (2) The Board,
(a) may, where considers it advisable; or
(b) shall, upon receipt of a notice requiring a hearing pursuant to subsection (1) or pursuant to subsection 7(2), unless in its absolute discretion it considers that the requirement is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay.

hold a hearing with respect to,

(c) the acceptance or amendment and acceptance of the environmental assessment;

(d) whether approval to proceed with the undertaking in respect of which the environmental assessment was prepared should or should not be given; and

(e) whether the approval mentioned in clause (d) should be given subject to terms and conditions and, if so, the provisions of such terms and conditions.

Idem (3) Upon receipt from the Minister of a notice pursuant to subsection (2), section 13 or section 24(1)(c), the Board shall appoint a time for the hearing, shall give reasonable notice thereof to the proponent and to the Minister and in such manner as the Minister may direct, notice to the public, to any person who has made a written submission to the Minister pursuant to section 7(2) and to such other persons as the Minister considers necessary or advisable, and such other notice as the Board considers proper, and shall hold the hearing and decide the matters referred to it in the notice of the Minister.

Parties (4) The parties to any proceedings before the Board in respect of the undertaking are,

- (a) the proponent;
- (b) any person, other than the Minister, who has required the hearing; and
- (c) such other persons as,
 - (i) the Board, in its opinion, specifies have an interest in the proceedings, and
 - (ii) the Board, having regard to section 20 and the other purposes of this Act, may specify.

Other hearings

13 Where an environmental assessment has been accepted or amended and accepted, and no hearing has been held pursuant to section 12, the proponent or a person who has made a written submission pursuant to section 7(2) may, by written notice delivered to the Minister within 15 days after the giving of the notice mentioned in section 9 or the notice mentioned in section 10(2), request a hearing by the Board with respect to,

- (a) whether approval to proceed with the undertaking in respect of which the environmental assessment was submitted should or should not be given; and
- (b) whether the approval mentioned in clause (a) should be given subject to terms and conditions and, if so, the provisions of such terms and conditions, and

the Minister, shall transmit the request to the Board, and the Board

- (c) may, where it considers it advisable; or
- (d) shall, upon receipt of any such notice requiring a hearing, unless in its absolute discretion it considers that the requirement is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

hold a hearing.

Approval to proceed

14 (1) Where the Minister has accepted an environmental assessment of an undertaking, the Minister may, 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) give approval to proceed with the undertaking;
- (b) give approval to proceed with the undertaking subject to such terms and 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 he considers necessary,
 - (iv) such changes in the undertaking as he 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 as accepted by the Minister 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.

Matters to be considered by the Minister

(2) In determining whether to give approval, give approval subject to terms and conditions or refuse to give approval to proceed with an undertaking in accordance with subsection (1), the Minister shall consider,

- (a) the purpose of the Act;
- (b) the environmental assessment of the undertaking as accepted by the Minister;

(c) the submissions, if any, made to the Minister with respect to the environmental assessment.

Notice of approval

(3) The Minister shall give notice, together with written reasons therefor, of his approval, approval subject to terms and conditions or refusal to give approval to proceed with the undertaking to the proponent, and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to section 7(2) and to such other persons as the Minister considers necessary or advisable.

Proceedings under other Acts

15 An approval by the Minister pursuant to this Act to proceed with an undertaking does not preclude any proceeding in relation to a contravention of the *Clean Air Act* or the *Clean Water Act*.

Effect of approval

16(1) No person shall proceed with an undertaking contrary to any term or condition imposed by the Minister in giving approval to proceed with the undertaking.

Idem

(2) No person shall give, make, issue, interpret or apply any licence, permit, approval, permission, consent, loan, guarantee of repayment of a loan, grant or subsidy that is required in order to proceed with an undertaking contrary to any term or condition imposed by the Minister in giving approval to proceed with the undertaking.

Where proponent proposes to change undertaking

17 Where a proponent of an undertaking proposes to make a change in the undertaking,

(a) before the Minister has given approval to proceed with the undertaking, that does not conform to the environmental assessment of the undertaking as accepted by the Minister; or

(b) after the Minister has given approval to proceed with the undertaking, that does not conform to any term or conditions imposed upon the approval to proceed with the undertaking,

this Act applies to the proposal to make the change in the undertaking as though the proposed change were itself an undertaking to which this Act applies.

**PART III
ENVIRONMENTAL ASSESSMENT BOARD**

Composition of Board	18(1) The Environmental Assessment Board is hereby established and shall be composed of 12 members who shall be appointed by the Lieutenant Governor in Council and chosen from persons who are experts in the law, science, administration and business of the environment, and who are not employed in the public service of Alberta in the employ of any department.
Chairman and vice-chairman	(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members.
Confirmation of appointments	(3) The appointments under subsection (1) and (2) must be confirmed by resolution of the Legislative Assembly.
Acting chairman	(4) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, a vice-chairman shall act as and have all the powers of the chairman and, in the absence of the chairman and the vice-chairmen from any meeting of the Board, the members of the Board present shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.
Term of members	(5) The first members of the Board, other than the chairman, shall be appointed for a term of 1, 2, or 3 years so that as nearly as possible, 1/3 of the members, other than the chairman, shall retire each year.
Term of chairman	(6) The chairman of the Board shall be appointed to hold office during pleasure.
Vacancies	(7) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.
Quorum	(8) Five members of the Board constitute a quorum.
Employees	(9) Such employees as are necessary to carry out the duties of the Board shall be appointed under the <i>Public Service Act</i> .

- Expert assistance (10) The board may appoint from time to time one or more persons having technical or special knowledge of any matter to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.
- Remuneration (11) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Exercise of power (12) The powers of the Board shall be exercised by resolution and the Board may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Board and generally dealing with the carrying out of its function.
- Practice and procedure (13) The Board may determine its own practice and procedure in relation to hearings and may, subject to the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable.
- Conduct of hearings by less than quorum (14) The chairman may, in writing, authorize less than a quorum of the Board to conduct a hearing and the member or members conducting the hearing shall have all the powers of the Board for the purposes of the hearing.
- Only members at hearing to participate in decision (15) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- Board may appoint class representative (16) For the purpose of proceedings before the Board, the Board may appoint from among a class of parties to the proceedings having, in the opinion of the Board, a common interest, a person to represent that class in proceedings, but any other member of the class for which such appointment was made may, with the consent of the Board, take part in the proceedings notwithstanding the appointment.

Minister entitled to take part in proceedings	(17) The Minister is entitled, by counsel or otherwise, to take part in proceedings before the Board.
Giving of decision	(18) The Board shall give a copy of its decision together with written reasons therefor to the Minister, to the parties, or where an appointment has been made pursuant to subsection (16), to the appointee on behalf of the class, and to such other persons as have made written submissions pursuant to section 7(2) and to the clerk of each municipality in which the undertaking is being or will be carried out.
When decision is effective	(19) No decision of the Board is effective until it becomes final pursuant to section 23.
Decisions, etc., of Board not subject to review	(20) No decision, order, direction, resolution or ruling of the Board shall be questioned or reviewed in any court and no proceeding shall be taken in any court by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, application for judicial review, quo warranto, or otherwise to question, review, prohibit or restrain the Board or any of its decisions or orders.
Appeal to Executive Council	(21) Any decision or order of the Board may be appealed within 15 days, by notice to the Minister in writing, to the Executive Council who may confirm, amend or annul the decision or order and shall give its reasons in writing to the appellant for its determination.
Limitation of financial provisions	(22) The financial provisions of this section are contingent upon money being appropriated to the purpose by the Legislature.
Hearings to be public; exceptions	19(1) A hearing conducted by the Board or a member of members of the Board shall be held only after notice is published as provided in the regulations and specifying the date, time and place thereof and shall be open to the public except where the Board or the member or members of the Board conducting the hearing is or are of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case, the Board or the member or members of the Board conducting the hearing may hold the hearing concerning any such matters in camera.

(2) The Board shall provide for public intervenors to participate in any hearing at which it believes it would be in the public interest to do so and may pay the fees and expenses of the public intervenor and such assistance as he may reasonably require, subject to the regulations, providing money has been appropriated to the purpose by the Legislature.

(3) The Board may permit any person that it recognizes has a legitimate or public interest in the matter to participate in the hearing and may, if it considers it in the public interest, pay all or a part of the fees, expenses or other costs of any person except the proponent, participating in the hearing.

(4) The Board shall consider the cost and benefit of a project compared with the cost and benefit of alternate projects.

Effect of decision
of Board

20 Any decision of the Board that is not appealed to the Executive Council under section 18(21) or, having been the subject of such an appeal, that becomes final pursuant to section 23 shall be deemed to be the decision of the Minister or of the Minister with the approval required by section 14.

Testimony by
member,
employee or
appointee of
board

21 No Member, employee or appointee of the Board shall be required to give testimony in any proceeding with regard to information obtained by him in the discharge of his duties as a member, employee or appointee of the Board.

Inspection of
premises

22 For the purposes relevant to the subject-matter of a hearing, the Board, its employees and appointees may enter and inspect any land or premises other than a dwelling at any reasonable time.

Variation or
rescission of
decisions

23(1) Within 28 days after receipt by the Minister of a decision of the Board on any matter referred to it by notice of the Minister pursuant to section 12(2) or section 13 or made pursuant to clause (c), or within such longer period as may be determined by the Minister within such 28 day period, the Minister, with the approval of the Lieutenant Governor in Council or such ministers of the Crown as the Lieutenant Governor in Council may designate, may,

- (a) vary the whole or any part of the decision;
- (b) substitute for the decision of the Board, such decision as he considers appropriate; or

(c) by notice to the Board require the Board to hold a new hearing of the whole or any part of the matter referred to the Board by the notice of the Minister and reconsider its decision.

Idem	(2) Subject to subsection (3), a decision of the Board is final after the expiration of the period or periods mentioned in subsection (1) unless, pursuant to subsection (1), the decision is varied or a decision is substituted for the decision of the Board or a new hearing is required.
Idem	(3) A decision of the Board that has been varied pursuant to subsection (1)(a) or a decision that has been substituted for the decision of the Board pursuant to subsection (1)(b), is final.
Idem	(4) The Minister shall give notice, together with written reasons therefor, of any variation, substitution or requirement of a new hearing pursuant to subsection (1), to every person entitled to receive a copy of the decision of the Board pursuant to section 18(17).
Annual report	24(1) The Board shall submit a report on its transactions for every year to the Minister, who shall table it in the Legislative Assembly forthwith if it is then sitting and, if not, within 15 days of the commencement of the next sitting.
Submission of Board decision	(2) The Board shall submit its decision and the reasons therefor on every project referred to it, to the Minister who shall table it in the Legislative Assembly forthwith if it is then sitting and, if not, within 15 days of the commencement of the next sitting.
Review of Board decision	(3) If any 5 Members of the Legislative Assembly so propose in writing, to the Minister, the Minister shall move a motion in the Assembly that a decision of the Board be referred to the Executive Council for review, and it may confirm, annul or amend the Board's decision.
Tabling of review	(4) The Minister shall table the results of any review by the Executive Council in the Legislative Assembly and if the Executive Council has determined that the decision of the Board be annulled or amended, shall propose a motion to the Assembly that the review of the Executive Council be confirmed.

Effective date of review

(5) A review of a Board decision by the Executive Council is effective,

(a) if a confirmation, upon tabling in the Legislative Assembly or, if the Assembly is not then sitting, upon sending a copy thereof to the Clerk of the Legislative Assembly and to every Member, and

(b) if an annulment or amendment, upon passage of a resolution by the Assembly confirming it.

PART IV PROVINCIAL OFFICERS

Designation of provincial officers

25(1) The Minister may designate in writing one or more employees of the Department or other persons as provincial officers for the purposes of any section of 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.

Certificate of designation

(2) The Minister shall issue to every provincial officer a certificate of his designation and every provincial officer, in the execution of his duties under this Act and the regulations, shall produce his certificate of designation upon request.

Powers of provincial officer

(3) 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 may, upon production of his 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 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.

Order authorizing

(4) Where a justice of the peace is satisfied, upon an ex parte application 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.

Obstruction of provincial officer

26 No person shall hinder or obstruct a provincial officer in the lawful performance of his duties or knowingly furnish a provincial officer with false information or refuse to furnish him with information required for the purposes of this Act and regulations.

Matters confidential

27(1) Every provincial officer shall preserve secrecy in respect of all matters that come to his 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 counsel; or
- (c) with the consent of the person to whom the information relates.

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 in the course of any survey, examination, test or inquiry under this Act or the regulations.

PART V

ADMINISTRATION

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 licence, permit, approval, permission or consent, issued or granted contrary to section 6(1),

and the court may make the order on such terms and conditions as the court considers proper.

Exemption

29 Where the Minister is of the opinion that it is in the public interest, having regard to the purpose of this Act and weighing the same against the injury, damage or interference that might be caused to any person or property by the application of this Act to any undertaking, the Minister, with the approval of the Lieutenant Governor in Council or of such Ministers of the Crown as the Lieutenant Governor in Council may designate, may by order,

- (a) exempt the undertaking or the proponent of the undertaking from the application of this Act or the regulations or any matter or matters provided for in this Act or the regulations subject to such terms and conditions as the Minister may impose;
- (b) suspend or revoke an exemption referred to in clause (a);
- (c) alter or revoke any term or condition of an exemption referred to in clause (a).

Disclosure

30 Notwithstanding any other provision of this Act, where the Minister is of the opinion that compliance with any provision of this Act is causing, will cause or will likely cause the disclosure of matters that are of such a nature that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of disclosing such matters to the public, the Minister may make such order for the protection of such person or the public interest as he considers necessary or advisable.

Record

31(1) The Minister shall cause to be maintained a record of every undertaking in respect of which an environmental assessment has been submitted under this Act that, subject to any order of the

Minister pursuant to section 30, shall consist of the environmental assessment, the review of the environmental assessment that the Minister caused to be prepared, any written submissions, any decision of the Board or the Minister together with written reasons therefor, if any, made under this Act, any notice under section 9, section 10(2), section 14(3), section 23(4) and section 38 and any order of the Minister pursuant to this Act together with the written reasons, if any, therefor.

Inspection

(2) The Minister shall, upon the request of any person, make available for the inspection of such person any record referred to in subsection (1) including any document forming part of the record as soon as practicable after issuance or receipt of the document.

Powers and
duties of Minister

32 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 man;
- (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 terms and 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 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.

Protection from personal liability

33(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise lies or shall be instituted against an employee of the Department, a member of the Board or a Crown employee within the meaning of the *Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Department, or such member or provincial officer, 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 any such duty or authority.

Crown not relieved of liability

(2) Subsection (1) does not, by reason 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.

Hearings under other Acts

34 Where a proponent is required under this Act not to proceed with an undertaking until an environmental assessment of the undertaking has been accepted by the Minister and a public hearing is required or permitted under the *Clean Air Act* or the *Clean Water Act* with respect to the undertaking, the Minister shall order,

(a) that the public hearing under the *Clean Air Act* or the *Clean Water Act* may be proceeded with and that this Act or the regulations or any matter or matters provided for in this Act or the regulations that is specified in the order does not apply to the undertaking or proponent; or

(b) that this Act applies to the undertaking and proponent and the public hearing under the *Clean Air Act* or the *Clean Water Act* shall be deemed not to be required or permitted.

False information

35 No person shall knowingly give false information in any application, return or statement made to the Minister, the Board, an employee or appointee of the Board, a provincial officer or any employee of the Department in respect of any matter under this Act or the regulations.

Certificates, etc.,
as evidence

36 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 Alberta 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 or by or for the Board, or any certified copy thereof,

is prima facie proof of the facts stated therein and of the authority of the person making the document without any proof of appointment or signature.

Service

37(1) Any notice, order, approval or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Department.

Notice to clerk of
municipality

(2) A notice,

(a) given by the Minister pursuant to section 9, section 10 or section 14(3);

(b) given by the Board pursuant to section 12(3); or

(c) of the order of the Minister pursuant to section 11,

shall be given to the clerk of each municipality in which the undertaking is being or will be carried out.

Idem

(3) Where notice is given or service is made by registered mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice, order, approval or other document until a later date.

Public notice

(4) Where the Minister or the Board is of the opinion that because

the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the Minister or the Board, as the case may be, may instead of doing so, cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the Minister or the Board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

Inspection of documents

(5) The making available by the Minister 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.

Destruction of certain documents

(6) Notwithstanding 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.

Where notice to be given to Minister

38 Where a proponent of an undertaking in respect of which an environmental assessment has been accepted by the Minister and for which approval to proceed has been given by the Minister receives notice of any fact, situation, event, order, proceeding or application the result of which or compliance with which has affected, affects or may affect the ability of the proponent to proceed with the undertaking in accordance with any term or condition to which the approval of the Minister to proceed with the undertaking is subject, the proponent shall forthwith give notice thereof to the Minister.

Offence

39 Every person, whether as principal or agent, or an employee of the proponent, 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 \$5000 and on a subsequent conviction to a fine of not more than \$10 000 for every day or part thereof upon which the offence occurs or continues.

PART VI REGULATIONS

Regulations

40 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 the provisions of this Act, the regulations or any section or part of a section thereof and designating any enterprise or activity or class of enterprises or activities or any proposal, plan or program or any class of proposals, plans or programs in respect of any of them by or on behalf of Her Majesty in right of Alberta, by a public body or public bodies or by a municipality or municipalities as an undertaking or class of undertakings to which this Act applies notwithstanding any exemption under this clause;
- (g) prescribing additional information that shall be contained in environmental assessments submitted to the Minister;
- (h) prescribing forms for the purposes of this Act and providing for their use.

Class of
undertakings

41 A class of undertakings under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to include any number of undertakings under one ownership or more than one ownership and whether or not of the same type or with the same attributes,

qualities or characteristics.

Scope of regulations

42 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.

Adoption of codes in regulations

43 Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, standard or procedure so adopted.

Application of regulations

44(1) A regulation is not effective with respect to an enterprise or activity that is commenced before the regulation comes into force.

Idem

(2) Notwithstanding subsection (1), a regulation is effective with respect to,

(a) any major commercial or business enterprise or activity that is commenced after the coming into force of this Act 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 coming into force of this Act 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 coming into force of this Act.

Idem

(3) Notwithstanding subsection (1), a regulation made under section 40(f) 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 coming into force of this Act.

R.S.A. 1983 c.
S-27.1

45(1) The Surface Rights Act is amended by this section.

(2) Section 26 is amended

(a) in subsections (1), (8) and (10) by striking "*Court of Queen's Bench*" and substituting "Environmental Assessment Board",

(b) in subsection (3)(a) by striking out "in the office of the clerk of the Court in the judicial district in which the land is situated", and substituting "with the Environmental Assessment Board",

(c) in subsection (3)(b) by striking out "Board" and substituting "Surface Rights Board",

(d) in subsection (4) by striking out "clerk of the Court" and substituting "Environmental Assessment Board",

(e) in subsection (5) by striking out "clerk of the Court" and substituting "Environmental Assessment Board", and in clause (a) by striking out "Court" and substituting "Environmental Assessment Board", and

(f) in subsections (6) and (7) by striking out "Court" and substituting "Environmental Assessment Board",

(g) in subsections (8) and (10) by striking out "Court of Queen's Bench" and substituting "Environmental Assessment Board".

R.S.A. 1980 c.
W-5

46(1) *The Water Resources Act is amended by this section.*

(2) *Section 43 is amended*

(a) in subsection (5) by striking out "a judge of the Court of Queen's Bench" and substituting "the Environmental Assessment Board", and

(b) by repealing subsections (6), (7) and (8) and substituting

(6) the Environmental Assessment Board may affirm, reverse or amend the suspension or cancellation of the licence and may attach conditions to its determination.

(7) the decision of the Board under subsection (6) may be filed in the Court of Queen's Bench and thereupon may be enforced as if it were an order of the Court.

R.S.A. 1980 c.
C-12

47(1) *The Clean Air Act is amended by this section.*

(2) Section 14 is amended in subsections (8), (9) and (10) by striking out "Environment Council of Alberta" and substituting "Environmental Assessment Board".

R.S.A. 1980 c.
C-13

48(1) *The Clean Water Act is amended by this section.*

(2) Section 15 is amended in subsections (8), (9) and (10) by striking out "Environment Council of Alberta" and substituting "Environmental Assessment Board".

Coming into
force

49 This Act comes into force on Proclamation.