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# COMPARISON OF FEDERAL AND ONTARIO ENVIRONMENTAL ASSESSMENT STATUTES

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TABLE OF CONTENTS

	page
INTRODUCTION.....	1
CONCEPTUAL DIFFERENCES.....	1
STATEMENT OF PURPOSE.....	3
DIFFERENCES IN APPLICATION.....	3
(i) Definition of Environment.....	3
(ii) Federal Authorities vs. Proponents.....	4
(iii) Projects vs. Undertakings.....	6
(iv) Exemptions.....	7
(v) Prohibition on Proceeding.....	7
(vi) EA Process (General).....	8
(vii) Content of EA.....	9
(viii) Role of the Public.....	9
(ix) Intervenor Funding.....	10
(x) Effect of Public Proceedings.....	11
(xi) Enforcement and Compliance.....	11
APPENDIX A.....	13

## COMPARISON OF FEDERAL AND ONTARIO ENVIRONMENTAL ASSESSMENT STATUTES

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### INTRODUCTION

After four years of public consultation and legislative development, the Canadian Environmental Assessment Act (CEAA) received Royal Assent on June 23, 1992.<sup>1</sup> Upon proclamation, the CEAA will replace the current Environmental Assessment Review Process (EARP) Guidelines Order. This development comes 20 years after a federal interdepartmental working group recommended the establishment of a statutory environmental assessment process.<sup>2</sup> The passage of the CEAA also comes approximately fifteen years after the passage of Ontario's Environmental Assessment Act (EAA).<sup>3</sup>

The purpose of this article is to compare and contrast some selected features of the CEAA and EAA. This comparison has been summarized in Appendix A.

### CONCEPTUAL DIFFERENCES

The fundamental difference between the CEAA and EAA lies in the respective roles and responsibilities of proponents and the Ministers of the Environment. While the CEAA moves somewhat away

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<sup>1</sup> S.C. 1992, Chap. 37.

<sup>2</sup> Task Force on Environmental Impact Policy and Procedure, Final Report (Ottawa, 1972), pp. 6-11. See also Ted Schrecker, "The Canadian Environmental Assessment Act: Tremulous Step Forward or Retreat Into Smoke and Mirrors?" (1991), 5 C.E.L.R. (N.S.) 192.

<sup>3</sup> R.S.O. 1990, Chap. E. 18.

from the "self-assessment" process in EARP (i.e. wherein federal departments and agencies assessed the environmental significance of their own projects), the federal Minister of the Environment does not generally have decision-making authority under the CEAA on the adequacy of environmental assessments (EA) or on whether proposed projects should proceed. Instead, "federal authorities"<sup>4</sup> (which may be proponents of projects subject to EA) are required, for example, to "consider" the reports of mediators or review panels, but they are free to reject or ignore the recommendations in these reports.<sup>5</sup> Similarly, federal authorities are required to provide the public with the reasons for rejecting or ignoring the recommendations in these reports.

On the other hand, under the EAA the Minister of the Environment decides whether a proponent's EA is adequate; whether approval to proceed should be given and whether terms and conditions should be attached to the approval.<sup>6</sup> These decisions may be referred by the Minister to the Environmental Assessment Board, which is a statutory tribunal which holds a quasi-judicial public hearing in relation to the EA and the undertaking. These hearings are much more formalized than review panel proceedings under the CEAA.

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<sup>4</sup> CEAA, s.2.

<sup>5</sup> CEAA, s.37.

<sup>6</sup> EAA, s.12(2).

STATEMENT OF PURPOSE

The CEAA provides that the purposes of the Act are to: ensure careful consideration of a project's environmental effects; to promote sustainable development; to ensure that projects do not cause significant adverse environmental effects in other jurisdictions; and to ensure public participation in the EA process.<sup>7</sup> Similar provisions are found in the preamble of the CEAA.

The purpose of the EAA is more briefly stated: the betterment of the people of Ontario by providing for the protection, conservation and wise management of the environment.<sup>8</sup> This section has been interpreted as requiring proponents to demonstrate that their undertakings are in the public interest (and that there is a "need" for the undertaking, and that the undertaking may be carried out in an environmentally sound manner).<sup>9</sup>

DIFFERENCES IN APPLICATION

In addition to the foregoing differences in approach and purpose, the CEAA and EAA also differ in their application, particularly with respect to key definitions and process requirements.

(i) Definition of Environment

Unlike the EARP Guidelines (which fail to define "environment"), the CEAA defines "environment" as: land, water, and air, including

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<sup>7</sup> CEAA, s.4.

<sup>8</sup> EAA, s.2.

<sup>9</sup> M.I. Jeffery, Environmental Approvals in Canada, s.5.13-.32.

the atmosphere; all organic and inorganic matter and living organisms; and interacting natural systems.<sup>10</sup> "Environmental effect" has been defined as any change in the environment caused by a project, including changes to health and socio-economic conditions, to physical and cultural heritage, to aboriginal use of land and resources, and to structures or things of historical, archaeological paleontological or architectural significance.<sup>11</sup>

Ontario's EAA does not define "environmental effect", but broadly defines "environment", inter alia, as air, land, or water; plant and animal life, including man; socio-economic and cultural conditions; buildings, structures, machines and other devices; and any part or combination of the foregoing and the interrelationships between any two or more of them.<sup>12</sup> As described below, s.5(3) of the Act requires proponents to describe the effects of the undertaking (and the alternatives) upon the environment.

(ii) Federal Authorities vs. Proponents

The CEAA applies to "federal authorities" which exercise decision-making powers enumerated in s.5 (i.e. where a federal authority proposes to undertake a project itself; provide financial assistance respecting a project; sell, lease or dispose of federal lands necessary for the project; or grant a statutory approval prescribed by regulation). Federal authorities have been defined as Ministers

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<sup>10</sup> CEAA, s.2.

<sup>11</sup> CEAA, s.2.

<sup>12</sup> EAA, s.1.

of the Crown in right of Canada; federal agencies; federal departments and departmental corporations; and other prescribed bodies.<sup>13</sup> This definition expressly excludes Territorial Commissioners in Council, agencies or bodies; band councils; harbour commissions; or Crown Corporations.<sup>14</sup> If a federal authority exercises decision-making authority caught by s.5, it is referred to as the "responsible authority" and it must ensure that an EA is conducted.<sup>15</sup>

Ontario's EAA, on the other hand, applies to "undertakings" proposed by public sector "proponents" (i.e. the Crown in right of Ontario, public bodies prescribed by regulation, and municipalities). The EAA also applies to private sector proponents who propose undertakings which are designated by regulation as undertakings to which the Act applies.<sup>16</sup> "Proponent" has been defined as a person who carries out or proposes to carry out an undertaking, or who has charge, management or control of an undertaking.<sup>17</sup>

Given the broad EAA definition of "proponent" and the narrow CEAA definition of "federal authority", it may be argued that the

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<sup>13</sup> CEAA, s.2.

<sup>14</sup> Ibid.

<sup>15</sup> CEAA, s.11.

<sup>16</sup> EAA, s.3.

<sup>17</sup> EAA, s.1.

Ontario legislation potentially applies to a greater range of public and private sector enterprises and activities. This is particularly true when one compares the CEAA definition of "project" to the EAA definition of "undertaking", as described below.

(iii) Projects vs. Undertakings

Under the CEAA, an EA is required before a federal authority may exercise enumerated powers in relation to a "project". "Project" has been narrowly defined as any proposed construction, operation, modification, decommissioning, abandonment or other undertakings related to a "physical work", or any other proposed physical activities related to a physical work which are prescribed by regulation.<sup>18</sup> Thus, environmentally significant federal policies, plans or programs (ie. NAFTA) do not appear to be subject to the CEAA.

In contrast, the EAA defines "undertaking" broadly as enterprises or activities or proposals, plans or programs in respect of enterprises or activities.<sup>19</sup> Thus, the EAA has applied not only to physical works (i.e. landfills), but also to governmental plans or programs (i.e. Ontario Hydro's Demand Supply Plan, or the Ministry of Natural Resources' timber management planning process). Accordingly, the EAA has wider application to environmentally significant initiatives than the CEAA.

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<sup>18</sup> CEAA, s.2.

<sup>19</sup> EAA, s.1.



(iv) Exemptions

Both the CEAA and EAA contain provisions which exempt certain matters from the ambit of the legislation. For example, the CEAA provides that the Act does not apply to projects described on an exemption list, and projects in response to emergencies.<sup>20</sup> Similarly, the EAA allows the Minister and Cabinet to exempt undertakings or classes of undertaking on public interest grounds or other grounds; however, such exemptions may be subject to terms and conditions.<sup>21</sup>

(v) Prohibition on Proceeding

Both the CEAA and EAA impose certain prohibitions on proceeding with projects or undertakings prior to the completion of the required EA procedures. For example, the CEAA provides that an EA is required before a federal authority exercises a s.5 power.<sup>22</sup> Similarly, the CEAA provides that where a project is included in the comprehensive study list, no federal statutory powers shall be exercised to permit the project to be carried out unless an EA has been completed and a project decision has been made.<sup>23</sup>

Ontario's EAA provides that proponents shall not proceed with undertakings until the EA has been accepted and approval to proceed

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<sup>20</sup> CEAA, s.7.

<sup>21</sup> EAA, ss.29 and 39(f). See O.Reg. 209/87 for examples of exempted undertakings.

<sup>22</sup> CEAA, s.11.

<sup>23</sup> CEAA, s.13.

has been given by the Minister (or the Environmental Assessment Board).<sup>24</sup> In addition, other provincial ministries, agencies or municipalities cannot issue statutory approvals or provide financial assistance until the EA has been accepted and approval to proceed has been given.<sup>25</sup>

(vi) EA Process (General)

The EA process under the CEAA includes, where applicable: screening or comprehensive study reports; reports by mediators or review panels; and "follow up" (i.e. effects/effectiveness monitoring) programs.<sup>26</sup> As described above, there is no independent Minister or tribunal which has decision-making authority over a federal authority's decision to proceed with a project.

Ontario's EA process includes: submission of an EA by a proponent to the Minister of the Environment; governmental and public review of the EA; and a decision on the adequacy of the EA and on whether approval to proceed should be given to the proponent by the Minister or the Environmental Assessment Board.<sup>27</sup> Thus, there is an external decision-making authority which decides whether or not an undertaking should proceed; the proponent does not make this determination itself.

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<sup>24</sup> EAA, s.5(1).

<sup>25</sup> EAA, s.6(1).

<sup>26</sup> CEAA, s.14.

<sup>27</sup> EAA, ss.5,7,9,12,14.

(vii) Content of EA

The CEAA provides that every EA should consider: environmental effects; significance of environmental effects; public comments; mitigation measures; and other matters (i.e. need and/or alternatives to the project) that the responsible authority or Minister may require to be considered.<sup>28</sup> Screening reports do not have to consider the purpose of the project; the alternative methods of carrying out the project; the need for a follow up program; or the effects upon renewable resources. However, these factors must be considered in comprehensive studies, mediations and review panel proceedings.<sup>29</sup> It must be noted that the scope of several of the foregoing factors are determined by either the responsible authority or the Minister.<sup>30</sup>

On the other hand, consideration of need; purpose; alternatives to; alternative methods; environmental effects; and mitigation are essential parts of EAs prepared under the EAA.<sup>31</sup> Thus, these critically important matters are not optional under the Ontario EA process.

(viii) Role of the Public

There is a significant role for public participation under both the CEAA and EAA. For example, the public may participate in

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<sup>28</sup> CEAA, s.16.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> EAA, s.5(3).

screening, mediations, panel reviews; and other proceedings.<sup>32</sup> In addition, a public registry is required under the CEAA to provide public access to EA documentation.<sup>33</sup> Public notice and comment opportunities shall be provided in relation to proposed CEAA guidelines, codes of practice, agreements, arrangements, criteria or orders.<sup>34</sup>

The public is similarly given broad participatory rights under Ontario's EA process. For example, proponents are expected to undertake "Pre-Submission Consultation" with the public prior to the submission of an EA to the Minister. In addition, the public can inspect EAs and government reviews and make submissions thereon or require a public hearing before the Environmental Assessment Board.<sup>35</sup> The Minister is required to maintain a public record of EA documentation.<sup>36</sup>

(ix) Intervenor Funding

Under the CEAA, the Minister may establish a "participant funding" program to facilitate public participation in mediations and review

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<sup>32</sup> CEAA, ss. 18(3), 19(3), 29(2), 31, 34-36, 41(e), 44(b), 46(2)b), 47(2)(b), 49.

<sup>33</sup> CEAA, s.55.

<sup>34</sup> CEAA, s.58(3).

<sup>35</sup> EAA, s.7.

<sup>36</sup> EAA, s.30.

panel proceedings.<sup>37</sup> Under the EAA, public interest intervenors have a statutory right under the Intervenor Funding Project Act to apply for funding to facilitate their participation in an EA hearing.

(x) Effect of Public Proceedings

As described above, a report from a mediator or review panel is not binding on the responsible authority under the CEAA. Instead, the responsible authority must "consider" the report before deciding whether or not to proceed with the project.

On the other hand, under the EAA the Minister makes the decision on whether a proponent should be permitted to proceed with an undertaking. Where this decision has been referred to the Environmental Assessment Board, the Board makes the decision, which becomes final unless varied or rescinded by Cabinet within 28 days of the Minister's receipt of the decision.<sup>38</sup>

(xi) Enforcement and Compliance

No offence provision exists within the CEAA. However, the Minister may issue an order restraining activities where certain matters have been referred to mediation or review panels.<sup>39</sup> The Attorney

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<sup>37</sup> CEAA, s.58(1)(i).

<sup>38</sup> EAA, s.23.

<sup>39</sup> EAA, s.50.

General of Canada may seek injunctive relief where a Ministerial order is violated.<sup>40</sup>

Ontario's EAA provides that it is an offence not to comply with the Act, regulations, orders or approvals.<sup>41</sup> In addition, the Minister may apply for injunctive relief where EAA provisions have been breached.<sup>42</sup>

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<sup>40</sup> CEAA, s.51.

<sup>41</sup> EAA, s.38.

<sup>42</sup> EAA, s.28.

APPENDIX A

CANADIAN ENVIRONMENTAL  
ASSESSMENT ACT (CEAA)

ONTARIO'S ENVIRONMENTAL  
ASSESSMENT ACT (EAA)

PURPOSE

To ensure careful consideration of environmental effects; to promote sustainable development; to prevent significant adverse environmental effects in other jurisdictions; and to ensure public participation (preamble and s.4).

The betterment of the people of Ontario by providing for the protection, conservation and wise management of the environment (s.2).

BINDING ON THE  
CROWN

CEAA is binding on her Majesty in right of Canada or a province (s.3).

EAA binds the Crown (s.4).

APPLICATION OF  
ACT

CEAA applies to "federal authorities" which exercise certain powers in relation to

EAA applies to "undertakings" by or on behalf of Her Majesty in right of Ontario or by

a "project", viz. public bodies or municipalities; and to major where the federal ipalities; and to major authority: is the pro- commercial or business ponent; makes or auth- undertakings designated orizes payments, loan by regulation as under- guarantees, or other takings to which the financial assistance; Act applies (s.3). administers federal lands necessary for the project; or grants prescribed statutory approvals necessary for the project (s.5).

**SCOPE OF ACT**

CEAA applies to "projects", defined as any proposed construction, operation, modification, decommissioning or abandonment of a physical work; and any proposed physical activity prescribed by regulation (s.2).	EAA applies to "undertakings" defined as public enterprises or activities, or proposals, plans or programs in respect of public enterprises or activities; and major commercial or business enterprises or activities, or plans, proposals, or programs in
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**DEFINITION OF  
PROPONENT**

CEAA defines "federal authority" as: a Minister of the Crown in right of Canada; a federal agency; a federal department or departmental corporation scheduled in the Financial Administration Act; and any other body prescribed by regulation, but does not include Territorial agencies or bodies; band councils, harbour commissions, or Crown corporations within the meaning of the Financial Administration Act (s.2).  
"Proponent" means a

respect of major commercial or business enterprises designated by regulations (s.1).

EAA defines "proponent" as a person who carries out or proposes to carry out an undertaking; or the owner or person having charge, management or control of an undertaking (s.1). This includes "public bodies" which have been prescribed by regulation (O.Reg. 205/87, s.3), and includes Her Majesty in right of Ontario, Crown agencies within the meaning of the Crown Agencies Act, partnerships, unincorporated joint ventures and un-

person, body, federal authority or government that proposes a project (s.2). incorporated associations (s.1).

**EXEMPTIONS**

CEAA does not apply to projects described in the "exclusion list"; projects taken in response to national emergencies under the Emergencies Act; projects taken in response to emergencies to prevent property or environmental damage; and projects whose essential details are not specified at the time when a federal authority decides to provide financial assistance (s.7). EAA does not apply to feasibility studies (s.5(2) and s.6(2)); or to specific undertakings or classes of undertakings exempted by regulation (s.29, s.39(f) and O.Reg. 205/87).

**DEFINITION OF ENVIRONMENT**

CEAA defines "environment" as land, water, EAA defines "environment" broadly as air,

ir (including the atmosphere); all organic and inorganic matter and living organisms; and interacting natural systems containing these components (s.2). "Environmental effect" is defined as changes to the environment (s.2).

land, water; plant and animal life; the socio-economic environment; the cultural environment; the manmade environment; and any part or combination of the foregoing and the interrelationships between any two or more of them (s.1).

**DUTY TO PREPARE  
EA**

Federal authorities which are required to conduct environmental assessments (EAs) are defined as "responsible authorities", and they shall ensure that EAs are conducted "as early as practicable" and "before irrevocable decisions are made" (S.11(1)).

Proponents of undertakings subject to the EAA shall prepare and submit environmental assessments (EAs) to the Minister of the Environment (s.5(1)).

**PROHIBITION  
ON PROCEEDING**

A responsible author-

A proponent shall not

ity shall not exercise prescribed powers or duties or functions in respect of a project unless an EA has been completed and a decision to proceed has been made (s.11(2)). Where a project is described on the comprehensive study list or is referred to a mediator or review panel, no federal powers, duties or functions shall be exercised to permit a project to proceed unless an EA has been completed and a decision to proceed has been made (s.13).

proceed with an undertaking unless the Minister (or the Environmental Assessment Board) accepts the EA and gives approval to proceed (s.5(1)). No other statutory approvals or provincial financial assistance may be given unless the EA has been accepted and approval to proceed has been given (s.6(1)).

**EA PROCESS  
(GENERAL)**

The EA process includes, where applicable:

The EA process includes:

- screening or comprehensive study reports;
- a mediation or assessment by a review panel and the preparation of a report; and
- the design and implementation of a "follow-up program" (s.14).
- submission of an EA to the Minister;
- government and public review of the EA
- acceptance of EA and approval to proceed by either the Minister or the Environmental Assessment Board (ss.5, 7, 9, 12, 14).

**RELATIONSHIP  
WITH OTHER  
REGULATORY  
APPROVALS**

Where a screening or comprehensive study of a project is required, the responsible authority may cooperate with other "jurisdictions" (i.e. provincial governments, agencies or bodies) which have a responsibility to assess the environmental effects of the project (s.12(4)). Joint review panels may be

Where a public hearing is required or permitted under the Environmental Protection Act or Ontario Water Resources Act in respect of an undertaking, the Minister shall order that these other hearings may proceed or are not necessary (s.33). Where other statutory hearings are required in respect of an undertaking subject to the

established with other jurisdictions under certain circumstances (ss.40-42). Where the environmental effects of a project may be assessed by other federal processes, the Minister of Environment may approve the substitution of that process for an EA by a review panel under the CEAA under certain conditions (ss.43-45).

EAA, a consolidated hearing may be held before a "joint board" consisting of members from the Environmental Assessment Board and Ontario Municipal Board (Consolidated Hearings Act).

**CONTENT OF EA**

Every screening, comprehensive study mediation and assessment by a review panel shall consider:

- the environmental effects of the project, including cumulative effects;

An EA shall consist of:

- a description of the purpose of the undertaking;
- a description and statement of the rationale for the undertaking, the alternative methods of car-

- the significance of such effects;
  - public comments;
  - mitigation measures;
  - other relevant matters. (i.e. need or alternatives to) that the responsible authority or Minister may require to be considered.
- rying out the undertaking, and the alternatives to the undertaking;
  - taking;
  - a description of the environment likely to be affected, the likely environmental effects, and the measures to mitigate the effects of the undertaking, the alternative methods of carrying out the undertaking, and the alternatives to the undertaking;

In addition, every comprehensive study, mediation and assessment by a review panel shall consider:

- the purpose of the project;
  - the feasible alternative means of carrying out the project;
  - the need for a "follow-up" (i.e. effects/effectiveness
- an evaluation of the environmental advantages and disadvantages of the undertaking, the alternative methods of carrying out the undertaking, and the alternatives to the undertaking; and

monitoring) program;  
and  
• the effects upon  
renewable resources.

The scope of several  
of the foregoing fac-  
tors shall be deter-  
mined by the respon-  
sible authority, or  
the Minister when fix-  
ing the terms of ref-  
erence for a mediation  
or review panel ass-  
essment (s.16).

• an evaluation of the  
environmental advant-  
ages and disadvantages  
of the undertaking, the  
alternative methods of  
carrying out the under-  
taking and the alter-  
natives to the under-  
taking (s.5(3)).

**ROLE OF THE  
PUBLIC**

Where the responsible  
authority believes  
public participation  
in screening is appro-  
priate, or where re-  
quired by regulation,  
there shall be public  
notice and comment  
opportunities on the  
screening report

EA Branch Guidelines  
recommend that propon-  
ents undertake "Pre-  
submission Consult-  
ation" (PSC) with the  
public prior to the  
preparation and submis-  
sion of EA document-  
ation. The Minister  
shall give public not-



(s.18(3)). Public notice opportunities shall be provided respecting class screening reports (s.19(3)) and comprehensive study reports (s.22). "Interested parties" may participate in mediation proceedings (s.29)(2) and s.31). the public may participate in review panel proceedings (s.34 - 36); joint panel reviews (s.41(e)); proceedings which substitute for a review panel (s.44(b)); proceedings respecting transboundary and related environmental effects (s.46(2)(b)); proceedings respecting international effects (s.47(2)(b)); and pro- ice of the receipt of the EA documentation and the completion of the government review (s.7(1). Any person may inspect the EA and the government review and make submissions thereon, or require that the matter be referred to the Environmental Assessment Board (s.7(2). If a Board hearing is held, the public may participate in the proceedings (s.12(4) and s.19). The Minister shall maintain a record of every undertaking for which an EA has been submitted under the EAA, which shall be open to public inspection (s.30).

ceedings respecting effects on lands of federal interest (s.49). A public registry shall be established to facilitate public access to records related to EAs (s.55). Public notice and comment opportunities shall be provided on CEAA guidelines, codes of practice, agreements, arrangements, criteria or orders (s.58(3)).

**INTERVENOR  
FUNDING**

The Minister may establish a participant funding program to facilitate public participation in mediations and review panel proceedings (s.58(1)(i)).

Public interest intervenors have a statutory right to apply for intervenor funding to cover costs and disbursements involved in participating in hearings under the EAA.

(Intervenor Funding  
Project Act).

**EFFECT OF  
PUBLIC  
PROCEEDINGS**

Upon receipt of the mediator's report, review panel's report, a comprehensive study report, the responsible authority shall consider the report and decide whether the project should proceed, with or without mitigation (s.37). Where the project proceeds, the responsible authority shall develop an appropriate follow up" program (s.38).

Where the Minister has referred an EA to the Board for a hearing, the Board decides whether the EA should be accepted (or amended and accepted); whether approval to proceed with the undertaking should be given; and whether terms and conditions should be imposed (s.12(2)). Terms and conditions may relate to mitigation, monitoring, research and other matters (s.14). The Board's decision is final and enforceable unless the decision is varied or rescinded by Cabinet within 28 days of the

Minister's receipt of the decision (s.23).

**ENFORCEMENT AND COMPLIANCE**

Ministerial orders may prohibit proponents from carrying out certain projects referred to mediation or review panels (s.50). Where a Ministerial order is or may be contravened, the Attorney General of Canada may seek injunctive relief (s.51). No offence provision exists within the CEAA.

Any person who fails to comply with the EAA or the regulations, or who fails to comply with an order or a term or condition of approval under the EAA, is guilty of an offence (s.38). The Minister may apply to the Divisional Court to enjoin any act to proceed with an undertaking contrary to the EAA, or to invalidate any statutory approvals issued contrary to s.6(1) (s.28).

(Intervenor Funding Project Act).

**EFFECT OF PUBLIC PROCEEDINGS**

Upon receipt of the mediator's report, review panel's report, a comprehensive study report, the responsible authority shall consider the report and decide whether the project should proceed, with or without mitigation (s.37). Where the project proceeds, the responsible authority shall develop an appropriate follow up" program (s.38).

Where the Minister has referred an EA to the Board for a hearing, the Board decides whether the EA should be accepted (or amended and accepted); whether approval to proceed with the undertaking should be given; and whether terms and conditions should be imposed (s.12(2)). Terms and conditions may relate to mitigation, monitoring, research and other matters (s.14). The Board's decision is final and enforceable unless the decision is varied or rescinded by Cabinet within 28 days of the

Minister's receipt of the decision (s.23).

**FORCEMENT AND  
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Any person who fails to comply with the EAA or the regulations, or who fails to comply with an order or a term or condition of approval under the EAA, is guilty of an offence (s.38). The Minister may apply to the Divisional Court to enjoin any act to proceed with an undertaking contrary to the EAA, or to invalidate any statutory approvals issued contrary to s.6(1) (s.28).