

BILL 14

The Environmental Assessment Act, 1975

MOTION TO BE MOVED IN COMMITTEE

Section 12(2,3)

I MOVE THAT subsections 2 and 3 of section 12 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

(2) The Minister, by notice in writing,

(a) may, where he considers it advisable; or

(b) shall, upon receipt of a notice requiring a hearing pursuant to subsection 1 or pursuant to subsection 2 of section 7, unless in his absolute discretion he considers that the request <sup>is requirement</sup> is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to 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 submitted 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.

(3) Upon receipt from the Minister of a notice pursuant to subsection 2, section 13 or clause c of subsection 1 of section 24, 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 subsection 2 of section 7 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.

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The Environmental Assessment Act, 1975

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Section 10(1)

I MOVE THAT subsection 1 of section 10 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

10.-(1) Where a hearing is not required,

(a) pursuant to clause a of subsection 2 of section 12; or

(b) pursuant to clause b of subsection 2 of section 12 after receipt of a notice pursuant to clause b of subsection 2 of section 7,

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 subsection 2 of section 7 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 clause a of subsection 2 of section 12 or to clause b of subsection 2 of section 12 after receipt of a notice pursuant to subsection 1 of section 12, shall accept or amend and accept the environmental assessment.

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Section 14(2) (d)

I MOVE THAT clause d of subsection 2 of section 14 of the Bill, as reprinted for consideration by the Committee, be deleted.

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The Environmental Assessment Act, 1975

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Section 13

I MOVE THAT section 13 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

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 subsection 2 of section 7 may, by written notice delivered to the Minister within fifteen days after the giving of the notice mentioned in section 9 or the notice mentioned in subsection 2 of section 10, require 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, by notice in writing,

(c) may, where he considers it advisable; or

(d) shall, upon receipt of any such notice requiring a hearing, unless in his absolute discretion he considers that the request is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to hold the hearing.

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Section 20

I MOVE THAT section 20 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

20. Any decision of the Board that becomes final pursuant to section 24 shall be deemed to be the decision of the Minister or of the Minister with the approval required by section 14.

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Section 13

I MOVE THAT section 13 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

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 subsection 2 of section 7 may, by written notice delivered to the Minister within fifteen days after the giving of the notice mentioned in section 9 or the notice mentioned in subsection 2 of section 10, require 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, by notice in writing,

(c) may, where he considers it advisable; or

(d) shall, upon receipt of any such notice requiring a hearing, unless in his absolute discretion he considers that the request is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to hold the hearing.



What if the Minister ignores the court  
after going to Provincial court

BILL 14

The Environmental Assessment Act, 1975

MOTION TO BE MOVED IN COMMITTEE

Section 24

I MOVE THAT section 24 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

24.--(1) Within twenty-eight 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 subsection 2 of section 12 or section 13, or within such longer period as may be determined by the Minister within such twenty-eight 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,

*Struck down*

*How effect rights of appeal under SPP.*

(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.

*Before a say this final*

(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.

How affects  
SPP?

(3) A decision of the Board that has been varied pursuant to clause a or made pursuant to clause c of subsection 1 or a decision that has been substituted for the decision of the Board pursuant to clause b of subsection 1, is final.

(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 subsection 17 of section 18.

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The Environmental Assessment Act, 1975

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Section 43

I MOVE THAT section 43 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

43. 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.

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The Environmental Assessment Act, 1975

MOTION TO BE MOVED IN COMMITTEE

Section 7(3)

I MOVE THAT subsection 3 of section 7 of the Bill, as reprinted for consideration by the Committee, be amended by deleting "with the consent of the Minister and" in the fourth and fifth lines.

BILL 14

The Environmental Assessment Act, 1975

MOTION TO BE MOVED IN COMMITTEE

Section 11

I MOVE THAT section 11 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

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.
- (2) The Minister, after considering any written submissions of the proponent made within fifteen 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.

- (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 subsection 2 of section 7.
- (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.

BILL 14

The Environmental Assessment Act, 1975

MOTION TO BE MOVED IN COMMITTEE

Section 12(4)

I MOVE THAT subsection 4 of section 12 of the Bill, as reprinted for consideration by the Committee, be deleted and the following substituted therefor:

- (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 the purpose of this Act, may specify.

BILL 15

An Act to amend  
The Environmental Protection Act, 1971

MOTION TO BE MOVED IN COMMITTEE

MR. NEWMAN

Section 3

I MOVE that section 3 of the Bill be amended by adding thereto the following subsection:

(2) The said section 33d is amended by adding thereto the following subsections:

(3a) Subsections 12 and 14 to 20 of section 18 and sections 20 and 24 of The Environmental Assessment Act, 1975 do not apply where a hearing is required to be held under subsection 1 by the Environmental Assessment Board.

(3b) Where a hearing is required to be held under subsection 1 by the Environmental Assessment Board,

(a) the Board shall 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;

*SPPA will continue not to apply to the EPA.*



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(b) the member or members conducting a hearing shall prepare and submit to the Board a draft report of the Board referred to in clause e and, after notice of the purpose of the meeting has been given to all members of the Board, the Board shall consider the draft report at a meeting of the Board called for the purpose of preparing the report and the Board in preparing the report may,

(i) adopt the draft report;

(ii) adopt the draft report with such changes as the Board considers advisable, or

(iii) reject the draft report and take such other action for the purpose of preparing the report, including the holding of additional hearings, as the Board considers advisable;

(c) a hearing by the Board is for the purpose of making a report containing information and advice and the report is not in any way legally binding in any decision or determination that may be made;

(d) for the purposes of the exercise of any power or authority or the discharge of any duty by the Board or any member or members thereof conducting a hearing, the Board, or such member or members, has or have the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to the exercise of such power or authority and the discharge of such duty as if it were an inquiry under that Act; and

(e) the report of the Board shall contain a summary of the information presented and the views expressed at the hearing and its recommendations in respect of the subject-matter of the hearing, together with its reasons therefor.

BILL 15

An Act to amend  
The Environmental Protection Act, 1971

MOTION TO BE MOVED IN COMMITTEE

MR. NEWMAN

Section 4

I MOVE that section 4 of the Bill be amended by adding thereto the following subsection:

(2) The said section 35 is amended by adding thereto the following subsection:

(3a) The provisions of subsections 3a and 3b of section 33d apply where a hearing is required to be held under subsection 1 by the Environmental Assessment Board.