

Oak Ridges Moraine Conservation Act, 2001

S.O. 2001, Chapter 31

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Amended by: 2002, c. 17, Sched. F, Table; 2004, c. 9, s. 16; 2005, c. 1, s. 26; 2006, c. 21, Sched. F, ss. 122, 136 (1).

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Interpretation

1. (1) In this Act,

“First Nation” means a band as defined in the Indian Act (Canada); (“Première nation”)

“former Act” means the Oak Ridges Moraine Protection Act, 2001; (“loi antérieure”)

“local board” has the same meaning as in the Municipal Affairs Act, but does not include a board as defined in subsection 1 (1) of the Education Act; (“conseil local”)

“Minister” means the Minister of Municipal Affairs and Housing; (“ministre”)

“municipal planning authority” means a municipal planning authority established under section 14.1 of the Planning Act; (“office d’aménagement municipal”)

“natural core area” and “natural linkage area” mean areas designated as such in the Oak Ridges Moraine Conservation Plan; (“zone centrale naturelle” et “lien physique naturel”)

“Oak Ridges Moraine Area” means the area of land designated under section 2; (“territoire de la moraine d’Oak Ridges”)

“Oak Ridges Moraine Conservation Plan” and “Plan” mean the plan established under section 3; (“Plan de conservation de la moraine d’Oak Ridges” ou “Plan”)

“official plan” has the same meaning as in the Planning Act; (“plan officiel”)

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

“public body” means a municipality, local board, ministry, department, board, commission, agency or official of a provincial or federal government or a First Nation; (“organisme public”)

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

“zoning by-law” means a by-law passed under section 34 of the Planning Act. (“règlement municipal de zonage”) 2001, c. 31, s. 1 (1); 2002, c. 17, Sched. F, Table.

Predecessor provisions

(2) In this Act, a reference to a provision of the Planning Act or the Condominium Act, 1998 includes a reference to any predecessors of the provision. 2001, c. 31, s. 1 (2).

Designation of Oak Ridges Moraine Area

2. The Lieutenant Governor in Council may, by regulation, designate an area of land as the Oak Ridges Moraine Area. 2001, c. 31, s. 2.

Oak Ridges Moraine Conservation Plan

Establishment of Plan

3. (1) The Minister may, by regulation, establish the Oak Ridges Moraine Conservation Plan for all or part of the Oak Ridges Moraine Area. 2001, c. 31, s. 3 (1).

Copies

(2) The Minister shall ensure that a copy of the Plan and of every amendment to it is filed,

- (a) in the offices of the Ministry of Municipal Affairs and Housing; and
- (b) with the clerk of each municipality that has jurisdiction in the Oak Ridges Moraine Area. 2001, c. 31, s. 3 (2).

Review

(3) The Minister shall ensure that a review of the Plan is carried out at the same time the review of the Greenbelt Plan is carried out under the Greenbelt Act, 2005 to determine whether the Plan should be revised. 2005, c. 1, s. 26 (1).

Natural core areas and natural linkage areas

(4) A review under subsection (3) shall not consider removing land from the natural core areas or the natural linkage areas. 2001, c. 31, s. 3 (4).

Consultation and public participation

- (5) During a review under subsection (3), the Minister shall,
 - (a) consult with any affected ministries and public bodies;
 - (b) consult with the council of each municipality or with each municipal planning authority that has jurisdiction in the Oak Ridges Moraine Area; and
 - (c) ensure that the public is given an opportunity to participate in the review. 2001, c. 31, s. 3 (5).

Environmental Assessment Act

(6) For greater certainty, the Plan is not an undertaking as defined in subsection 1 (1) of the Environmental Assessment Act, but that Act continues to apply within the area to which the Plan applies. 2001, c. 31, s. 3 (6).

Objectives

- 4. The objectives of the Oak Ridges Moraine Conservation Plan are,
 - (a) protecting the ecological and hydrological integrity of the Oak Ridges Moraine Area;
 - (b) ensuring that only land and resource uses that maintain, improve or restore the ecological and hydrological functions of the Oak Ridges Moraine Area are permitted;
 - (c) maintaining, improving or restoring all the elements that contribute to the ecological and hydrological functions of the Oak Ridges Moraine Area, including the quality and quantity of its water and its other resources;
 - (d) ensuring that the Oak Ridges Moraine Area is maintained as a continuous natural landform and environment for the benefit of present and future generations;

- (e) providing for land and resource uses and development that are compatible with the other objectives of the Plan;
- (f) providing for continued development within existing urban settlement areas and recognizing existing rural settlements;
- (g) providing for a continuous recreational trail through the Oak Ridges Moraine Area that is accessible to all including persons with disabilities;
- (h) providing for other public recreational access to the Oak Ridges Moraine Area; and
- (i) any other prescribed objectives. 2001, c. 31, s. 4.

Contents of Plan

5. The Oak Ridges Moraine Conservation Plan may,
- (a) set out land use designations for land to which the Plan applies;
 - (b) with respect to the areas affected by those land use designations,
 - (i) prohibit any use of land or the erection, location and use of buildings or structures for or except for such purposes as may be set out in the Plan,
 - (ii) restrict or regulate the use of land or the erection, location and use of buildings or structures, and
 - (iii) set out policies relating to land and resource protection and land development;
 - (c) prohibit official plans and zoning by-laws from containing provisions with respect to specified matters that are more restrictive than those in the Plan; and
 - (d) specify matters for the purpose of clause (c). 2001, c. 31, s. 5.

Agreements

6. (1) For the purposes of achieving the objectives of the Oak Ridges Moraine Conservation Plan, the Minister or a municipality with jurisdiction in the Oak Ridges Moraine Area may enter into an agreement with any other person or public body, including but not limited to an agreement that provides for sharing the costs of implementing any feature of the Plan. 2001, c. 31, s. 6 (1).

Planning Act and Development Charges Act, 1997

(2) Subsection (1) is subject to the Planning Act and the Development Charges Act, 1997. 2001, c. 31, s. 6 (2).

Effect of Plan

7. (1) A decision that is made under the Planning Act or the Condominium Act, 1998 or in relation to a prescribed matter, by a municipal council, local board, municipal planning authority, minister of the Crown or ministry, board, commission or agency of the Government of Ontario,

including the Ontario Municipal Board, shall conform with the Oak Ridges Moraine Conservation Plan. 2001, c. 31, s. 7 (1).

Same

(2) Despite any other Act, no municipality or municipal planning authority shall, within the area to which the Plan applies,

(a) undertake any public work, improvement of a structural nature or other undertaking that conflicts with the Plan; or

(b) pass a by-law for any purpose that conflicts with the Plan. 2001, c. 31, s. 7 (2).

Conflict

8. (1) Despite any other Act, the Oak Ridges Moraine Conservation Plan prevails in the case of conflict between the Plan and,

(a) an official plan;

(b) a zoning by-law; or

(c) a policy statement issued under section 3 of the Planning Act. 2001, c. 31, s. 8 (1).

Greater restriction not conflict

(2) Subject to clauses 5 (c) and (d), an official plan or zoning by-law does not conflict with the Plan to the extent that its provisions are more restrictive than those in the Plan. 2001, c. 31, s. 8 (2).

Official plan amendment

9. (1) On or before the day that is 12 months after the day the Oak Ridges Moraine Conservation Plan is filed under the Regulations Act, the regional municipalities of Peel, York and Durham shall each prepare and adopt an official plan amendment to implement the Plan. 2001, c. 31, s. 9 (1).

Note: Effective October 19, 2007 or on an earlier day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by the Statutes of Ontario, 2006, chapter 21, Schedule F, section 122 by striking out “is filed” and substituting “was filed”. See: 2006, c. 21, Sched. F, ss. 122, 143 (1).

Same

(2) On or before the day that is 18 months after the filing date described in subsection (1), every other prescribed municipality or municipal planning authority shall prepare and adopt an official plan amendment to implement the Plan. 2001, c. 31, s. 9 (2).

Approval process

(3) Section 10 governs the approval process for each amendment required by subsections (1), (2) and (5). 2001, c. 31, s. 9 (3).

Exercise of municipal powers by Minister

(4) If a municipality or municipal planning authority fails to comply with subsection (1) or (2), the Minister may, on giving the municipality or municipal planning authority at least 30 days written notice of his or her intention to do so, exercise any of its powers under this Act or section 17 or 21 of the Planning Act. 2001, c. 31, s. 9 (4).

Amendment of zoning by-laws

(5) On or before the day that is 18 months after the filing date described in subsection (1), every single-tier municipality and lower-tier municipality shall prepare and pass a zoning by-law amendment to bring its zoning by-laws into conformity with the Plan, but the amendment does not come into force unless it is approved by the Minister under section 10. 2001, c. 31, s. 9 (5).

Extension of time

(6) If a municipality does not prepare and pass the zoning by-law amendment required by subsection (5) until after the expiry of the 18-month period, section 10 nevertheless applies to the amendment if the Minister makes a written declaration to that effect. 2001, c. 31, s. 9 (6).

Advising of conflict

(7) If, in the Minister's opinion, an official plan or a zoning by-law conflicts with the Plan, the Minister may,

(a) advise the municipality or the municipal planning authority that adopted the official plan or that passed the zoning by-law of the particulars of the conflict; and

(b) invite the municipality or the municipal planning authority to submit, within a specified time, proposals for the resolution of the conflict. 2001, c. 31, s. 9 (7).

Minister's order

(8) The Minister may, by order, amend the official plan or the zoning by-law, as the case may be, to resolve the conflict,

(a) if the council or municipal planning authority fails to submit proposals to resolve the conflict within the specified time; or

(b) if proposals are submitted but, after consultation with the Minister, the conflict cannot be resolved, and the Minister so notifies the council or municipal planning authority in writing. 2001, c. 31, s. 9 (8).

Effect of order

(9) An order under subsection (8),

(a) has the same effect as an amendment to the official plan or zoning by-law that is adopted or passed by the council of the municipality or the municipal planning authority and approved by the appropriate approval authority; and

(b) is final and not subject to appeal. 2001, c. 31, s. 9 (9).

Extension of time

(10) If a municipality does not prepare and adopt the official plan amendment required by subsection (1) or (2) until after the expiry of the 12-month or 18-month period, as the case may be, section 10 nevertheless applies to the amendment if the Minister makes a written declaration to that effect. 2001, c. 31, s. 9 (10).

Non-application of Regulations Act

(11) Orders under subsection (8) and declarations under subsections (6) and (10) are not regulations within the meaning of the Regulations Act. 2001, c. 31, s. 9 (11).

Note: Effective October 19, 2007 or on an earlier day to be named by proclamation of the Lieutenant Governor, subsection (11) is amended by the Statutes of Ontario, 2006, chapter 21, Schedule F, subsection 136 (1) by striking out “the Regulations Act” and substituting “Part III (Regulations) of the Legislation Act, 2006”. See: 2006, c. 21, Sched. F, ss. 136 (1), 143 (1).

Approval process, amendments under subss. 9 (1), (2) and (5)

10. (1) This section applies with respect to official plan amendments required by subsections 9 (1) and (2) and zoning by-law amendments required by subsection 9 (5). 2001, c. 31, s. 10 (1).

Minister as approval authority

(2) The Minister is the approval authority. 2001, c. 31, s. 10 (2).

Delegation

(3) The Minister may, by order, delegate to the relevant upper-tier municipality his or her powers and duties as approval authority with respect to official plan amendments required by subsection 9 (2), and in that case subsections (4) to (12) do not apply to those amendments. 2001, c. 31, s. 10 (3).

Planning Act

(4) The Planning Act, except subsections 17 (2) to (8), (19), (24) to (30) and (33) to (50), applies to official plan amendments to which this section applies. 2001, c. 31, s. 10 (4).

Same

(5) The Planning Act, except subsections 34 (10.1) to (11.1), (14.1), (14.2), (19) to (26) and (30) to (34), applies to zoning by-law amendments to which this section applies. 2001, c. 31, s. 10 (5).

Record to be sent to Minister

(6) In the case of a zoning by-law amendment to which this section applies, the clerk of the municipality shall prepare and send to the Minister, not later than 15 days after the day the amendment was passed, a record that includes,

- (a) a copy of the zoning by-law amendment, certified by the clerk of the municipality;
- (b) a sworn declaration, by an employee of the municipality, that notice was given as required by subsection 34 (18) of the Planning Act;
- (c) the original or a true copy of all written submissions and material in support of submissions received in respect of the zoning by-law amendment before it was passed; and
- (d) any other information or material that the Minister requires. 2001, c. 31, s. 10 (6).

Minister may confer

(7) The Minister may confer with any person or public body that the Minister considers may have an interest in the proposed amendment. 2001, c. 31, s. 10 (7).

Steps

- (8) The Minister may,
 - (a) take one or more of the steps set out in subsection (9); or
 - (b) appoint a hearing officer to conduct a hearing and make written recommendations with respect to the proposed amendment, in which case section 13 applies. 2001, c. 31, s. 10 (8).

Same

- (9) The steps referred to in clause (8) (a) are:
 - 1. Approval of all or part of the proposed amendment.
 - 2. Modification of all or part of the amendment and approval of the amendment or part as modified.
 - 3. Refusal to approve all or part of the amendment. 2001, c. 31, s. 10 (9).

Minister's decision

(10) The Minister's decision under clause (8) (a), or under subsection 13 (6), if a hearing officer is appointed, is final and not subject to appeal. 2001, c. 31, s. 10 (10).

Deemed coming into force

(11) A zoning by-law amendment that the Minister approves under this section shall be deemed to have come into force on the day it was passed. 2001, c. 31, s. 10 (11).

Copies of decision

(12) The Minister shall send a copy of the decision referred to in subsection (10) to,

(a) the clerk of each municipality or the secretary-treasurer of each municipal planning authority, as the case may be, that has jurisdiction in the area to which the amendment would apply;

(b) each party to the hearing, if a hearing was held;

(c) each person or public body that filed a written request to be notified of the decision; and

(d) any other persons or public bodies that the Minister determines. 2001, c. 31, s. 10 (12).

Amendments to Plan

11. (1) Any amendments to the Plan,

(a) shall be made in accordance with section 12; and

(b) shall conform with the objectives of the Plan set out in section 4. 2001, c. 31, s. 11 (1).

Revocation

(2) Subsections 12 (1), (5), (6) and (8) to (11) apply, with necessary modifications, to revocation of the Plan. 2001, c. 31, s. 11 (2).

Amending process – Minister’s proposal

12. (1) The Minister may propose an amendment to the Oak Ridges Moraine Conservation Plan. 2001, c. 31, s. 12 (1).

Same – application by prescribed person or public body

(2) The Minister may prescribe circumstances under which a prescribed person or public body may apply to the Minister for an amendment to the Plan. 2001, c. 31, s. 12 (2).

Refusal, non-conformity with objectives

(3) The Minister may refuse an application made under subsection (2) if he or she is of the opinion that the amendment requested does not conform with the objectives of the Plan, as set out in section 4, and in that case subsections (5) to (9) do not apply to the amendment. 2001, c. 31, s. 12 (3).

Notice of refusal, reasons

(4) When an application is refused under subsection (3), the Minister shall give the applicant written notice and reasons. 2001, c. 31, s. 12 (4).

Notice re proposed amendment

(5) When an amendment to the Plan is proposed under subsection (1) or applied for under subsection (2), the Minister shall ensure that each municipality or municipal planning authority with jurisdiction in the area to which the amendment would apply or in an abutting area, and any other prescribed person or public body,

(a) is given notice of the proposal or application in the prescribed manner; and

(b) is invited to make written submissions on the amendment within the period of time specified by the Minister. 2001, c. 31, s. 12 (5).

Minister may confer

(6) The Minister may confer with any person or public body that the Minister considers may have an interest in the proposed amendment. 2001, c. 31, s. 12 (6).

Notice or payment by applicant

(7) The Minister may require an applicant to give the notice under clause (5) (a) at the applicant's own expense, or to pay the Minister's costs of giving it. 2001, c. 31, s. 12 (7).

Steps if no submissions received

(8) If no written submissions under clause (5) (b) are received within the specified time, the Minister may take one or more of the following steps and make the appropriate regulation, if any, amending the Plan:

1. Approval of all or part of the proposed amendment.
2. Modification of all or part of the amendment and approval of the amendment or part as modified.
3. Refusal to approve all or part of the amendment. 2001, c. 31, s. 12 (8).

Steps if submissions received

(9) If written submissions under clause (5) (b) are received, the Minister may, after considering the submissions,

(a) take one or more of the steps listed in paragraphs 1, 2 and 3 of subsection (8) and make the appropriate regulation, if any, amending the Plan; or

(b) appoint a hearing officer to conduct a hearing and make written recommendations with respect to the proposed amendment, in which case section 13 applies. 2001, c. 31, s. 12 (9).

Minister's decision

(10) The Minister's decision made in accordance with subsection (8) or clause (9) (a) is final and not subject to appeal. 2001, c. 31, s. 12 (10).

Copies of decision

- (11) The Minister shall send a copy of the decision referred to in subsection (10) to,
- (a) the clerk of each municipality or the secretary-treasurer of each municipal planning authority, as the case may be, that has jurisdiction in the area to which the amendment would apply;
 - (b) each party to the hearing, if a hearing was held;
 - (c) each person or public body that made written submissions under clause (5) (b); and
 - (d) any other persons or public bodies that the Minister determines. 2001, c. 31, s. 12 (11).

Duty of hearing officer

13. (1) On being appointed under clause 10 (8) (b) or 12 (9) (b), the hearing officer shall,
- (a) fix the time and place for the hearing; and
 - (b) require that notice, as specified by the hearing officer, be given to the prescribed persons and public bodies in the prescribed manner. 2001, c. 31, s. 13 (1).

Rules of procedure

- (2) The hearing officer may make rules of procedure for the hearing. 2001, c. 31, s. 13 (2).

Protection from personal liability

- (3) The hearing officer is not personally liable for anything done by him or her in good faith in the execution of his or her duty under this Act or for any neglect or default in the execution in good faith of his or her duty. 2001, c. 31, s. 13 (3).

Recommendations

- (4) The hearing officer shall prepare written recommendations, with reasons, recommending what action the Minister should take in accordance with clause 10 (8) (a) or 12 (9) (a), as the case may be, and shall give them to the Minister and to the parties to the hearing, within 30 days after the conclusion of the hearing. 2001, c. 31, s. 13 (4).

Extension of time

- (5) The Minister may extend the 30-day period at the hearing officer's request. 2001, c. 31, s. 13 (5).

Minister's decision

- (6) After considering the hearing officer's recommendations and, if applicable, the written submissions received under clause 12 (5) (b) and any comments received under subsection 12 (6),

the Minister may act in accordance with clause 10 (8) (a) or 12 (9) (a), as the case may be, and the Minister's decision is final and not subject to appeal. 2001, c. 31, s. 13 (6).

Orders under Planning Act, s. 47

14. (1) Nothing in this Act derogates from the Minister's power to make an order under section 47 of the Planning Act with respect to land within the Oak Ridges Moraine Area. 2001, c. 31, s. 14 (1).

Oak Ridges Moraine Conservation Plan and official plan

(2) Despite subsection 7 (1), an order referred to in subsection (1) need not conform with the Oak Ridges Moraine Conservation Plan or with the relevant official plan. 2001, c. 31, s. 14 (2).

Transitional Provisions, Regulations and Miscellaneous

Transition, application of s. 7

15. (1) Section 7 applies with respect to all applications, matters or proceedings commenced on or after November 17, 2001. 2001, c. 31, s. 15 (1).

Conformity to prescribed provisions of Plan

(2) In making a decision under the Planning Act or section 9 of the Condominium Act, 1998 or in relation to another prescribed matter, a municipal council, local board, municipal planning authority, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, shall conform to the prescribed provisions of the Oak Ridges Moraine Conservation Plan as if the Plan were in force on or before the date the application, matter or proceeding was commenced, if,

(a) the application, matter or proceeding was commenced before November 17, 2001; and

(b) on November 17, 2001, no decision has been made in respect of the application, matter or proceeding. 2001, c. 31, s. 15 (2).

Non-application of s. 7

(3) Section 7 does not apply to an application, matter or proceeding commenced before November 17, 2001 if a decision has been made in respect of the application, matter or proceeding before that date. 2001, c. 31, s. 15 (3).

Time of commencement

(4) For the purposes of subsections (1), (2) and (3), an application, matter or proceeding shall be deemed to have been commenced,

(a) in the case of an official plan or its amendment or repeal, on the day the by-law adopting the plan, amendment or repeal is passed;

(b) in the case of a request for an official plan amendment by any person or public body, on the day the request is received, whether the amendment is adopted or not;

(c) in the case of a zoning by-law or its amendment, including an interim control by-law, on the day the by-law is passed;

(d) in the case of an application for an amendment to a zoning by-law, on the day the application is made;

(e) in the case of development in a site plan control area, on the day the application under subsection 41 (4) of the Planning Act is made;

(f) in the case of an application for a minor variance under section 45 of the Planning Act, on the day the application is made;

(g) in the case of an application for approval of a plan of subdivision under section 51 of the Planning Act or for approval or exemption from approval for a plan of condominium under section 9 of the Condominium Act, 1998, on the day the application is made;

(h) in the case of an application for a consent under section 53 of the Planning Act, on the day the application is made. 2001, c. 31, s. 15 (4).

Time of decision

(5) For the purposes of subsections (2) and (3), a decision shall be deemed to have been made,

(a) in the case of an official plan amendment, on the day that the council adopts or refuses to adopt all or part of the amendment or on the day that the approval authority approves, modifies and approves or refuses to approve all or part of the amendment, whichever is earlier;

(b) in the case of an amendment to a zoning by-law under section 34 of the Planning Act, on the day that the council passes or refuses to pass the amending by-law;

(c) in the case of a holding provision by-law under section 36 of the Planning Act, on the day the council passes the by-law applying the holding symbol “H” (or “h”);

(d) in the case of an application for a minor variance under section 45 of the Planning Act, on the day the committee of adjustment makes its decision;

(e) in the case of an application for approval of a draft plan of subdivision under subsection 51 (31) of the Planning Act, on the day the approval authority makes its decision;

(f) in the case of an application for approval or exemption from approval for a plan of condominium under section 9 of the Condominium Act, 1998, on the day the approval authority makes its decision to exempt the plan or to approve or refuse to approve it under subsection 51 (31) of the Planning Act;

(g) in the case of an application for consent under section 53 of the Planning Act, on the day the council or the Minister gives or refuses to give a provisional consent;

(h) in the case of an application for approval under subsection 41 (4) of the Planning Act, on the day the council gives or refuses to give its approval; and

(i) in the case of an application, matter or proceeding appealed or referred to the Ontario Municipal Board from the council's neglect, refusal or failure to make a decision, on the day the Ontario Municipal Board makes a decision disposing of the application, matter or proceeding in whole or in part. 2001, c. 31, s. 15 (5).

Continued use

(6) No zoning by-law amendment approved by the Minister under clause 10 (8) (a) or subsection 13 (6) applies so as to prevent the use of any land, building or structure for any purpose prohibited by the zoning by-law amendment if, under subsection (3), that land, building or structure was lawfully used for such purpose on the day that the zoning by-law amendment comes into force so long as it continues to be used for that purpose. 2004, c. 9, s. 16 (1).

Deemed 18-month period

16. The one-year period mentioned in subsection 53 (41) of the Planning Act shall be deemed to be 18 months in the case of an application for consent under section 53 of that Act if,

- (a) the application relates to land described in section 1 of the former Act;
- (b) the application is commenced during the 12-month period beginning on November 17, 2000; and
- (c) approval of the application is conditional on a zoning by-law amendment being made. 2001, c. 31, s. 16.

Further approvals

17. (1) If a decision made under section 51 or 53 of the Planning Act or section 9 of the Condominium Act, 1998 with respect to land to which the Oak Ridges Moraine Conservation Plan applies is conditional on a further approval under either of those Acts, the decision on the application for the further approval shall be made in accordance with the same requirements of this Act that applied to the original decision. 2004, c. 9, s. 16 (2).

Application of subs. (1)

- (2) Subsection (1) applies despite section 15. 2001, c. 31, s. 17 (2).

Matters appealed to OMB

18. (1) If a matter relating to land to which the Oak Ridges Moraine Conservation Plan applies was appealed to the Ontario Municipal Board, whether before or after December 16, 2003, the Minister may do one or both of the following:

- 1. Amend the relevant official plan or zoning by-law with respect to the matter, by order.
- 2. Notify the Board that its consideration of the matter should be deferred. 2004, c. 9, s. 16 (3).

Stay

(2) When the Minister gives notice under paragraph 2 of subsection (1), all steps in the appeal are stayed as of the date of the notice, until he or she gives a further notice to the Board that the appeal may be continued. 2004, c. 9, s. 16 (3).

Non-application of Regulations Act

(3) Orders and notices under this section are not regulations within the meaning of the Regulations Act. 2004, c. 9, s. 16 (3).

Note: Effective October 19, 2007 or on an earlier day to be named by proclamation of the Lieutenant Governor, subsection (3) is amended by the Statutes of Ontario, 2006, chapter 21, Schedule F, subsection 136 (1) by striking out “the Regulations Act” and substituting “Part III (Regulations) of the Legislation Act, 2006”. See: 2006, c. 21, Sched. F, ss. 136 (1), 143 (1).

Minister’s decision

(4) Orders and notices under this section are final and not subject to appeal. 2004, c. 9, s. 16 (3).

Hearing officer

(5) If the Minister has given notice under paragraph 2 of subsection (1), the Minister may, within 30 days after the giving of notice, appoint a hearing officer to conduct a hearing at which representations may be made respecting the matter that was stayed before the Ontario Municipal Board. 2004, c. 9, s. 16 (3).

Time and notice of hearing

(6) The hearing officer shall fix the time and place for the hearing and give notice of the hearing in the prescribed manner and to the prescribed persons and public bodies. 2004, c. 9, s. 16 (3).

Rules of procedures

(7) The hearing officer may make rules of procedure for the hearing. 2004, c. 9, s. 16 (3).

Hearing

(8) The hearing officer shall conduct a hearing and make written recommendations, with reasons, to the Minister within 30 days after the conclusion of the hearing, recommending what action the Minister, with the approval of the Lieutenant Governor in Council, should take with respect to the matter, including making any decision that the Ontario Municipal Board could have made with respect to the matter. 2004, c. 9, s. 16 (3).

Protection from personal liability

(9) The hearing officer is not personally liable for anything done by him or her in good faith in the execution of his or her duty under this Act or any neglect or default in the execution in good faith of his or her duty. 2004, c. 9, s. 16 (3).

Extension

(10) The Minister may extend the 30-day period set out in subsection (8) at the hearing officer's request. 2004, c. 9, s. 16 (3).

Action by Minister with approval of L.G. in C.

(11) The Minister may, with the approval of the Lieutenant Governor in Council, approve, modify or refuse to approve or modify all or part of the hearing officer's recommendations. 2004, c. 9, s. 16 (3).

Decision final

(12) The decision under subsection (11) is final and not subject to appeal. 2004, c. 9, s. 16 (3).

Special provisions re prescribed lands

19. (1) Despite their repeal by section 10 of the former Act, the following provisions of the former Act shall be deemed to continue to apply to any lands that may be prescribed:

1. Subsections 2 (1) and (2).
2. Subsections 3 (1) and (2).
3. Section 4.
4. Subsections 5 (1), (2), (3), (5), (6) and (7). 2001, c. 31, s. 19 (1).

Repeal

(2) Subsection (1) is repealed on a day to be named by proclamation of the Lieutenant Governor. 2001, c. 31, s. 19 (2).

Continuation of matters

(3) On the repeal of subsection (1), all applications, appeals, referrals, procedures and hearings that were deemed to continue to be stayed under that subsection are continued as if that subsection had never been enacted, and any time periods shall be calculated as if no time had passed between the day the matter was stayed under subsection (1) and the repeal of that subsection. 2001, c. 31, s. 19 (3).

Same

(4) If a regulation made for the purposes of subsection (1) is amended to remove land from the prescribed category, subsection (3) applies with respect to that land, with necessary modifications. 2001, c. 31, s. 19 (4).

Limitations on remedies

20. (1) No cause of action arises as a direct or indirect result of,

- (a) the enactment or repeal of any provision of this Act;
- (b) the making or revocation of any provision of the regulations; or
- (c) anything done or not done in accordance with this Act or the regulations. 2001, c. 31, s. 20 (1).

No remedy

(2) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with anything referred to in clause (1) (a), (b) or (c). 2001, c. 31, s. 20 (2); 2005, c. 1, s. 26 (2).

Proceedings barred

(3) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything referred to in clause (1) (a), (b) or (c) may be brought or maintained against any person. 2001, c. 31, s. 20 (3).

Same

(4) Subsection (3) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of this Act. 2001, c. 31, s. 20 (4).

Proceedings set aside

(5) Any proceeding referred to in subsection (3) commenced before the day this Act comes into force shall be deemed to have been dismissed, without costs, on the day this Act comes into force and any decision in a proceeding referred to in subsection (3) made on or after November 16, 2001 is of no effect. 2001, c. 31, s. 20 (5).

No expropriation or injurious affection

(6) Nothing done or not done in accordance with this Act or the regulations constitutes an expropriation or injurious affection for the purposes of the Expropriations Act. 2001, c. 31, s. 20 (6).

Person defined

(7) In this section,

“person” includes, but is not limited to,

- (a) the Crown and its employees and agents,
- (b) members of the Executive Council, and
- (c) municipalities and their employees and agents. 2001, c. 31, s. 20 (7).

Non-application of Statutory Powers Procedure Act

21. The Statutory Powers Procedure Act does not apply to anything done under this Act. 2001, c. 31, s. 21.

Regulations – Lieutenant Governor in Council

22. (1) The Lieutenant Governor in Council may, by regulation,
- (a) designate an area of land as the Oak Ridges Moraine Area;
 - (b) prescribe matters for the purposes of subsection 7 (1);
 - (c) prescribe matters for the purposes of subsection 15 (2);
 - (d) prescribe land for the purposes of subsection 19 (1). 2001, c. 31, s. 22 (1).

Retroactivity

(2) A regulation under clause (1) (a) may be made retroactive to a date no earlier than November 16, 2001. 2001, c. 31, s. 22 (2).

Regulations – Minister

23. (1) The Minister may, by regulation,
- (a) establish the Oak Ridges Moraine Conservation Plan;
 - (b) prescribe additional objectives for the Plan;
 - (c) revoke the Plan in accordance with subsection 11 (2);
 - (d) make amendments to the Plan in accordance with section 12;
 - (e) with respect to applications under subsection 12 (2), prescribe,
 - (i) persons and public bodies who may make applications,
 - (ii) circumstances under which prescribed persons and public bodies may make applications,
 - (iii) information and material to be included with applications, and
 - (iv) fees to be charged for processing applications and circumstances in which the amount of a fee may be reduced or its payment may be waived;
 - (f) require specified lower-tier municipalities and single-tier municipalities with jurisdiction in the Oak Ridges Moraine Area to pass by-laws under section 135 or 142, or both, of the Municipal Act, 2001 and specify the municipalities and the by-law provisions;

(f.1) prescribe powers that must be exercised by municipalities in making a by-law referred to in clause (f) that are additional to those powers set out in section 135 or 142 of the Municipal Act, 2001;

(g) make amendments to the Plan in respect of matters relating to land to which the Oak Ridges Moraine Conservation Plan applies that were appealed to the Ontario Municipal Board on or before November 16, 2001;

(h) prescribe provisions of the Plan for the purposes of subsection 15 (2);

(i) prescribe anything else that is referred to in this Act as being prescribed. 2001, c. 31, s. 23 (1); 2002, c. 17, Sched. F, Table; 2005, c. 1, s. 26 (3).

Retroactivity

(2) Regulations under clauses (1) (a) and (g) may be made retroactive to dates no earlier than November 16, 2001. 2001, c. 31, s. 23 (2).

Same

(3) A regulation under clause (1) (d) may be made retroactive to a date no earlier than the date of the proposal under subsection 12 (1) or the application under subsection 12 (2), as the case may be. 2001, c. 31, s. 23 (3).

(4) Repealed: 2002, c. 17, Sched. F, Table.

Non-application of s. 12

(5) Despite clause 11 (1) (a), section 12 does not apply to amendments made under clause (1) (g). 2001, c. 31, s. 23 (5).

Offence

24. (1) Every person who contravenes a prohibition contained in the Oak Ridges Moraine Conservation Plan, fails to comply with a restriction contained in the Plan or fails to comply with an order made under subsection (5) is guilty of an offence. 2001, c. 31, s. 24 (1).

Penalty, individual

(2) An individual who is guilty of an offence described in subsection (1) is liable, on conviction,

(a) in the case of a first conviction, to a fine of not more than \$25,000 for each day or part of a day on which the offence occurs or continues; and

(b) in the case of a subsequent conviction, to a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues. 2001, c. 31, s. 24 (2).

Same, corporation

(3) A corporation that is guilty of an offence described in subsection (1) is liable, on conviction,

(a) in the case of a first conviction, to a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues; and

(b) in the case of a subsequent conviction, to a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues. 2001, c. 31, s. 24 (3).

Directors, officers, employees and agents

(4) If a corporation commits an offence described in subsection (1), a director, officer, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or failed to take all reasonable care to prevent the commission of the offence, or who participated in the commission of the offence, is also guilty of an offence under subsection (1), whether the corporation has been prosecuted for the offence or not. 2001, c. 31, s. 24 (4).

Additional orders

(5) The court that convicts a person under subsection (1) may, on its own initiative or on the motion of counsel for the prosecutor, make one or more of the following orders:

1. An order requiring the person, within the period or periods specified in the order, to,
 - i. take specified action to prevent, decrease or eliminate any adverse effects on land to which the Plan applies, and
 - ii. comply with the Plan.

2. An order imposing requirements that the court considers appropriate to prevent similar unlawful conduct or to contribute to the person's rehabilitation.

3. An order prohibiting the continuation or repetition of the offence by the person. 2001, c. 31, s. 24 (5).

Other remedies and penalties preserved

(6) Subsection (5) is in addition to any other remedy or penalty provided by law. 2001, c. 31, s. 24 (6).

Limitation

(7) A proceeding under subsection (1) shall not be commenced more than two years after the day on which the offence was alleged to have been committed. 2001, c. 31, s. 24 (7).

Saving

(8) For greater certainty, nothing in section 20 prevents a proceeding under subsection (1). 2001, c. 31, s. 24 (8).

Conflict

25. In the event of conflict between this Act and any other general or special Act, this Act prevails. 2001, c. 31, s. 25.

26. Omitted (provides for coming into force of provisions of this Act). 2001, c. 31, s. 26.

27. Omitted (enacts short title of this Act). 2001, c. 31, s. 27.