Environmental Assessment Act  
Loi sur les évaluations environnementales

ONTARIO REGULATION 305/92

EXEMPTION — MINISTRY OF TRANSPORTATION — MTC-61

**Consolidation Period:** From June 9, 1992 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

No amendments.

This Regulation is made in English only.

Having received a request from the Minister of Transportation that an undertaking, namely:

the activity of carrying out the design, acquisition of property, construction, operation and maintenance of the Leamington Diversion, a staged four-lane divided expressway (initial two-lane construction) 8.32 km in length with full access control, at grade intersections at all existing intersecting roadways along the expressway alignment,

be exempt from the application of the Act pursuant to section 29; and

Having been advised by the Minister of Transportation that if the undertaking is subject to the application of the Act, the following injury, damage or interference with the persons and property indicated will occur:

A. The public will be interfered with by the resulting delays in responding to the transportation needs of the Leamington area.

B. The public will be damaged by deteriorating operational problems and vehicle accidents on existing Highway 3.

C. The Crown will be damaged and interfered with by a delay in the completion of the project for which a planning study, corridor designation and acquisition of the majority of property was completed prior to the Act being proclaimed in 1975.

D. The Corporation of the Town of Leamington will be interfered with and damaged to the extent that ever increasing traffic volumes entering the town limits will overtax Highway 3 and other roads within the town forcing remedial measures to be carried out sooner than necessary.

E. The Corporations of the County of Essex and the Townships of Mersea and Gosfield South will be interfered with by the delay in completion of this project for which a designated alignment has existed since 1969, the majority of property has been acquired and upon which basis land use planning has been influenced in expectation of highway construction.

Having weighed such injury, damage or interference against the betterment of the people of the whole or any part of Ontario by the protection, conservation and wise management in Ontario of the environment which would result from the undertaking being subject to the application of the Act;

The undersigned is of the opinion that it is in the public interest to order and orders that the undertaking is exempt from the application of the Act for the following reasons of which I have been advised by the Minister of Transportation:

A. The planning, highway designation and majority of property acquisition for the undertaking was completed before the Act came into force. Liaison with other governmental agencies was part of the initial planning process.

B. In 1989, the Ministry of Transportation conducted a review of the planning study which evaluated seven alternatives including the upgrading of existing Highway 3 as well as the designated new alignment. Intergovernmental agency liaison and public participation were part of the review process. The results of this review confirmed the environmental and engineering appropriateness of the designated new alignment and was fully supported by the four municipal governments affected by the project.

C. Adjacent sections of Highway 3 (New) from Oldcastle to Essex had been constructed prior to the implementation of the Act and the section from Essex to Ruthven was constructed under Exemption Order MTC-33, resulting in this one uncompleted section remaining to be constructed.

D. The completion of this last remaining section of Highway 3 between the City of Windsor and the Town of Leamington will allow the full benefit of a fully controlled access freeway to be realized by the people of Ontario and particularly the business, agricultural and commercial elements in the Windsor-Leamington corridor.

E. The Corporations of the County of Essex, the Townships of Mersea and Gosfield South and the Town of Leamington have over the last several years made representation to the Minister of Transportation and requested that the Ministry of Transportation proceed with the construction of the Leamington Diversion within the 1989 to 1994 time period. Each of the municipalities have recently passed resolutions requesting that the Ministry proceed with the undertaking as soon as possible.

F. High traffic volumes and accident rates on the existing section of Highway 3 between Ruthven and Leamington will be substantially reduced as a result of the undertaking.

This exemption order is subject to the following terms and conditions:

1. The Minister of Transportation will follow the process outlined in the Provincial Highways Class Environmental Assessment, including contact with the appropriate Ministries, agencies and the public, during the design process. Any concerns which are raised shall be addressed and documented by the Ministry of Transportation.

2. The Minister of Transportation shall prepare and submit an Environmental Status Statement to the Environmental Assessment Branch of the Ministry of the Environment to be kept in the records maintained under section 31 of the Act to document the concerns identified and commitments made during the design process.

3. Prior to the commencement of construction, the Minister of Transportation must make the Environmental Study Report available for public comment for at least thirty days.

4. No construction shall be carried out pursuant to this exemption order unless construction has commenced prior to May 31, 1995. O.Reg. 305/92.

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