

Ontario Proposes A New Approach To At-Risk Species Protection



Introduction

Ontario has announced a planned overhaul of the province's endangered species legislation. The approach was announced on April 17, 2025, as part of Bill 5, *Protect Ontario by Unleashing our Economy Act, 2025*. If passed, this bill will make significant interim amendments to the *Endangered Species Act, 2007* (ESA) and later repeal the ESA and replace it with a new *Species Conservation Act, 2025* (SCA) on a date to be named by the provincial government.

Bill 5 also contains a variety of other amendments streamlining project approval processes, including mining projects.

The stated objective behind these proposed changes to species conservation legislation is to speed up project timelines and increase business certainty, while still protecting species at risk. Among other things, these proposed changes would:

1. Revise the purpose of the Acts to reflect social and economic considerations
2. Establish a registration-first approach to fast-track projects
3. Provide the provincial government with the discretion to

- add or remove species from the protected species list (the Species at Risk in Ontario or SARO List)
- 4. Reduce duplication between federal and provincial conservation legislation
- 5. Wind down the Species Conservation Action Agency

These proposed changes are discussed in more detail below.

Legislation Details

1. Revised Purpose

The amended ESA, and subsequently the SCA, will contain a revised purpose that places greater emphasis on economic growth. While the current purpose of the ESA is focused on protecting species at risk and promoting ecological stewardship, the revised purpose will incorporate social and economic considerations, including the need for sustainable economic growth in Ontario.

2. Registration-First Approach

The most significant change to the legislative regime is the introduction under the proposed SCA of a registration-first approach to projects that may impact species at risk. Currently, the provincial government may issue permits, enter into agreements or provide conditional exemptions for individuals and businesses whose activities adversely impact at-risk species. Where a conditional exemption is available for an activity that may impact an at-risk species, the individual or business proposing to carry out the activity is generally required to register with the Ministry of the Environment, Conservation and Parks (MECP) to benefit from the exemption. Under the proposed SCA, almost all activities that formerly required a permit will now only require registration with the MECP.

3. Discretion to Add and Remove Species From the Species at Risk in Ontario List

While a body of independent experts known as the Committee on the Status of Species at Risk in Ontario (COSSARO) will continue to be responsible for assessing and classifying species in Ontario as extirpated, endangered or threatened, under the new SCA the provincial government would be given the discretion to add or remove species from the SARO List. This is a significant change from the current practice, which provides no appeal from COSSARO decisions.

4. Redefining Protections for At-Risk Species

Under both the amended ESA and the proposed SCA, the government plans to revise the scope of activities requiring registration or, in limited circumstances, a permit. First, the updated legislation will remove “harassment” from the list of prohibited activities. Additionally, the definition of habitat will be revised to focus on what the government considers to be the core protections essential to the conservation of species.

5. Exemption for Species Protected Under Federal Conservation Legislation

Currently, individuals and businesses may need to comply with both provincial and federal requirements for extirpated, endangered and threatened aquatic species and migratory birds on non-federal lands, where those species are protected under the federal *Species at Risk Act* (SARA) and the ESA. To remove duplication, species protections in the proposed SCA would not apply to SARA-protected aquatic species and migratory birds.

6. Wind Down of the Species Conservation Action Agency

Under the amended ESA and the proposed SCA, the government plans to wind down the Species at Risk Conservation Fund and the agency that administers the fund, the Species Conservation Action Agency. The Species at Risk Conservation Fund was established to fund activities that help protect certain species at risk. The fund allows individuals and businesses

who may adversely impact these species to pay a charge to the fund rather than undertake activities that are beneficial to the species, as may otherwise be required under a permit, agreement or conditional exemption. This option to pay in lieu will no longer exist under the new legislative regime.

7. Updated Compliance and Enforcement Powers

Bill 5 would also, if passed, change the compliance and enforcement powers available to the MECP. According to the provincial government, these changes would strengthen enforcement by giving provincial officers clearer inspection and investigation powers and new order powers. Under both the amended ESA and the proposed SCA, provincial officers would have the power to issue contravention orders requiring a person to refrain from any activity that the officer reasonably believes contravenes the Acts or regulations, orders, agreements or permits made under the Acts. A contravention order could also be used by an officer to require a person to take a range of actions, including rehabilitating damaged habitat or providing alternative habitat.

Key Takeaways

If passed, Bill 5 will significantly alter Ontario's legislative protections for species at risk and would likely:

- Allow projects that previously required an ESA permit to begin site preparation and construction activities more quickly through a streamlined registration process
- Enable project proponents to proceed with activities that may have previously required a permit or registration, including activities that could harass a protected species (i.e., disrupt its normal behaviour in a manner that adversely affects its ability to reproduce, feed, rear its young, rest or migrate)
- Ease the permitting burden on proponents who would

otherwise require both ESA and SARA authorizations

Bill 5 has been posted on the [Environmental Registry of Ontario](#) and is open for public comment until May 17, 2025.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Authors: [Ryan McNamara](#), [Jonathan Kahn](#), [Lana Finney](#), [Zoe Harrison](#)

Blake, Cassels & Graydon LLP (Blakes)