

Attorney General of Canada fails to land knockout punch against application on climate change (Maltais v. Minister of Environment)

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Although there is debate about whether the world is suffering from climate change, according to a 2024 United Nations survey, 80 percent of people worldwide want their country to do more about it. Based on measurements of the world's glaciers, there is certainly scientific evidence that they have receded each year for the past 37 years and that they are melting faster than ever. Accordingly, environmental activists and other environmental stakeholders are aggressively lobbying governments to proactively take immediate steps to reduce carbon emissions and to strictly adhere to legislation introduced to reduce greenhouse gases by certain targeted dates. In Canada, the federal government's shift in its climate change strategy, which will roll back prior emission reduction targets, has landed in court.

In *Maltais v. Minister of Environment*, 2026 CanLII 97613 (FC), the applicants are seeking an order to compel the Minister of Environment to amend the current greenhouse gas ("GHG") emissions reduction plan because established targets for 2030 are now unrealizable. The application has been brought under the *Canadian Net-Zero Emissions Accountability Act* (the "CNZEEA").

Under the CNZEEA, the Minister is required to establish a national GHG emissions target for 2030, 2035, 2040 and 2045 (the "Milestone Years"), and to achieve a target of net zero emissions for 2050. Under subsection 9(1), the Minister must also "establish a [GHG] emissions reduction plan" for meeting the targets for the Milestone Years.

While the targets may be amended, section 12 of the CNZEEA requires the Minister to consult with "the other federal ministers having duties and functions relating to the measures that may be taken to achieve that target." Section 13 further states that the Minister must "provide the governments of the provinces, Indigenous peoples of Canada", an advisory body established under the CNZEEA, and "interested persons" with the opportunity to make submissions.

However, the applicants contend that the Minister has failed comply with the CNZEEA's requirements to amend the emissions reduction plan ("ERP"), and thus seek, among other additional or alternative relief, an order in the nature of *mandamus* to compel the Minister to bring the 2030 ERP into compliance with the legislation, and to start the amendment process.

Based on *Apotex Inc. v. Canada (Attorney General)*, 1993 CanLII 3004 (FCTAD), aff'd 1994 CanLII 47 (SCC), several criteria must be satisfied to succeed on a *mandamus* application. The criteria include that there must be a public duty to act, that the duty must be owed to the applicant and that, where the duty is discretionary, consideration must be given to the nature and manner of exercise of that discretion.

The Attorney General of Canada (“AG”) sought to strike the application on the grounds that it had no possibility of success because the Minister had no duty to act under the *CNZEAA* and that there was no public duty owed to the applicants. In support of its arguments, the AG noted that [section 11 of the *CNZEAA*](#) contained a discretionary public law power which could not impose a public legal duty on the Minister to act as demanded by the applicants.

The AG also submitted that the remedy being sought was tantamount to an order that the Minister comply with the law. Such relief was unavailable to the applicants based on precedent (*Wasyluk v. Canada (Royal Mounted Police)*, 2020 FC 962).

Notwithstanding the use of the word “may” in [section 11](#), the applicants contended that the provision needed to be interpreted under the modern approach to statutory interpretation and that a full analysis, which was unavailable on a motion to strike, was required. The applicants also argued that the precedent relied upon by the AG was distinguishable and required an interpretative analysis of *CNZEAA* provisions which could not be done on the motion to strike.

With respect to whether the Minister owed the applicants a public duty to act, the applicants explained that under [section 13](#), they were owed a direct duty and that they, in any event, met the public interest standing test to bring the application.

The court dismissed the AG’s motion to strike the application and concluded that the applicants could possibly succeed in being granted a declaratory order for *mandamus*.

Although the court noted that it had plenary jurisdiction to strike the application, the threshold to succeed on the motion was high. To succeed, the AG was required to demonstrate that there was a “knockout punch” or fatal flaw in the application.

Reading the application holistically, practically and generously, the court concluded that the motion turned on competing interpretations of the legislation. This was insufficient for identifying a fatal flaw in the application or “the delivery of a knock-out blow.”

The court explained that the competing interpretative analyses were nuanced and that a full interpretative analysis would be required for a correct interpretation. In the circumstances, this required the benefit of a full record.

Similarly, the issue of the Minister’s obligation to consult or receive submissions from parties like the applicants required a fulsome interpretative analysis. The court also held that with respect to standing, this was not a clear case where the standing issue could be determined on a preliminary motion.

While it is unknown whether the applicants will eventually succeed on their application, this case highlights the importance of environmental law issues and the ability of environmental groups to use the courts to potentially obtain relief on one of the most important issues facing mankind today. Many places around the world are being negatively impacted by a rise in sea levels, with lands bordering our oceans facing significant soil erosion. Accordingly, governments that have enacted legislation to protect the environment against climate change are well-advised to clearly explain their positions and to be accountable and transparent when revising their climate change targets. For the Canadian government, applying the spirit of the provisions of the *CNZEAA* broadly would arguably be beneficial to fostering a robust discussion on climate change, promoting constructive solutions to the crisis and achieving the purposes of the legislation.

Under [section 4](#), the purpose of the *CNZEAA* is “to require the setting of national targets for the reduction of greenhouse gas emissions based on the best scientific information available and to promote transparency, accountability and immediate and ambitious action in relation to achieving those targets, in support of achieving net-zero emissions in Canada by 2050 and Canada’s international commitments in respect of mitigating climate change.”

Arguably, this is a laudable purpose.

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