



May 16, 2025

The Honorable Vic Fedeli
Ministry of Economic Development, Job Creation, and Trade
18th Floor, 777 Bay St. Toronto, ON M7A 1S5

Via Email: SpecialEconomicZones@Ontario.ca

Attention Minister Fedeli

Re: ERO 019-6813 - Schedule 9 of Bill 5, “Special Economic Zones Act, 2025”

These are the comments of Environmental Defence regarding the proposed Schedule 9 of Bill 5, which your government has entitled the “Special Economic Zones Act, 2025”.

Environmental Defence is a leading Canadian environmental advocacy organization that works with government, industry and individuals to defend clean water, a safe climate and healthy communities. As such, we would have very serious concerns about these elements of Bill 5 even if it were limited to enabling the sorts of “special economic zones” that the government has falsely presented as the substance of the **“Special Economic Zones Act, 2025”**. However, our analysis, like that of the Canadian Civil Liberties Association, Democracy Watch, the Ontario Federation of Labour, and many other civil society organizations, reveals that the harms caused by Schedule 9 would extend much further, threatening the rule of law itself in Ontario.

Special Economic Zones

Ontario’s environmental, land use planning and health and safety laws exist to protect Ontarians. It would be dangerous to empower one Cabinet Minister, or Cabinet as a whole, to effectively suspend the application of any such laws even if that power was strictly limited to small geographic “zones”, and to individuals, businesses and projects vital to Canada’s national sovereignty or economic survival. For example, sections 2, 3, 4, 5 and 6 of Bill 5, Schedule 9 would operate in conjunction to let Cabinet exempt anyone or any project within those “zones” wholly or in part from:

- The laws (e.g., s. 20 (1) of the *Safe Drinking Water Act, 2002*) which prohibits anyone from putting anything in a drinking water reservoir or any other part of a drinking water system that “could result in, (a) a drinking water health hazard”
- The laws (e.g., s. 6(1) of the *Environmental Protection Act*) that prohibits people or companies from discharging poisons into the air or water that could endanger human health and safety.

It is important to note that unlike other statutes which empower Cabinet, a cabinet Minister or a non-partisan administrative decision-maker to make exceptions to the law, the *Special Economic Zones Act* allows them to suspend these fundamental safety rules regardless of whether the Minister is reasonably satisfied that public safety, health (or other legislative purposes) will be protected in some other way.

Even if the application of Bill 5, schedule 9 *were* actually limited to or focused on the kinds of geographic locations and projects referred to in the government's public communications regarding this statute, it would create a very profound risk of continuing and repeating the kinds of serious harm to the health and lives of racialized and indigenous people and low income communities, - and to the aboriginal and treaty rights of indigenous nations, that have stained Ontario's history. It would be a recipe for the worst, and most transparent kinds of environmental racism and classism.

A power to Exempt Anyone, Anywhere, and Anything from Ontario and Municipal Laws

The truth is that Schedule 9 of Bill 5 would confer authoritarian powers upon the Premier and Cabinet that go far beyond anything Ontarians would recognize as "special economic zones" - and far beyond any powers that exist in any part of Canada today - and far beyond those being proposed by the government of British Columbia.

Schedule 9 would grant Ontario's Premier and his cabinet powers to arbitrarily exempt favoured friends, their land and their projects from any law or regulation democratically enacted by the provincial parliament or by city and town councils. Far from helping to protect Ontario from U.S. attacks, Bill 5 would, if passed in anything like its current form, subject Ontarians to the same, concentrated "presidential" powers that are multiplying and being abused south of the border.

While the government has been presenting these powers as a special tool to fast-track projects that help protect Ontario, **there is nothing in the law that has any plausible connection with adaptation to the loss of U.S. export markets.** For example:

- The Act does nothing to specify that "trusted proponent" status the government is for "flagship" proponents that need help adapting to U.S. tariffs, or even for businesses, rather than favoured individuals, at all.
- There are no criteria focusing "designated project" or "special economic zones" status on activities or projects necessary to replace U.S. imports with domestic production, connect Ontario producers with new markets, replace U.S. demand for raw materials, or those with any unusual economic significance, at all
- There is no language that would restrict the Premier and Cabinet Ministers' power to narrow "zones" focused on some special economic activity, such as mining of critical minerals, or production of vaccines.

The proposed language of Schedule 6 It would be an unfettered power to pick and choose who our provincial and municipal laws apply to.

While sections 2, 3, and 4 of the *Special Economic Zones Act* purport to restrict the conferring of this "above the law" status to projects, people and businesses that meet "the prescribed criteria", this language is of no significance whatsoever, because Bill 5 content of those criteria in the unfettered discretion of the very same Cabinet that it would empower to "apply" them. The Bill itself provides no direction or restriction whatsoever regarding what those criteria must be. For example, based on the

present language of Bill 5 the criteria could simply be that the would-be “special economic zone”, “designated project” or “trusted proponent” is situated within Ontario. The government cannot simply wave this reality away. If the government’s intention were to be bound by meaningful, substantive criteria that the Ontario Legislature and the Ontario public could accept, it would have enumerated those criteria in this statute, rather than giving itself an unfettered discretion to invent - and reinvent - them at will.

There is nothing in the Act even to limit its application to the kinds of laws actually relevant to industrial development, land use or infrastructure approvals. The broad power to “exempt” anyone the Premier and Cabinet choose “from requirements under provisions of an Act or of a regulation or other instrument under an Act” would extend to everything from the Trespass to Property Act (the law which prevents people strangers from walking into our backyard and refusing to leave) to labour and health and safety laws, to the Highway Traffic Act and municipal bylaws against public urination. Ontario’s largest labour union is entirely justified in pointing out that Schedule 9 would let the Premier and Cabinet “turn entire cities – like Toronto or Windsor or Sudbury – into ...zones... in which fundamental labour rights and protections no longer apply, including those around child labour, the right to refuse unsafe work, and even basic meal breaks.” . If the government actually meant to protect labour and rights, or the prohibitions against polluting drinking water, or the ban on poisoning the air, in Special Economic Zones, those laws would be clearly excluded in the text of the Bill itself.

Schedule 9 of Bill 5 would exploit the very real dangers from the U.S. as a pretext for empowering the government to arbitrarily grant its “friends” (or anyone else it chooses) impunity from any (or every) Ontario law – including health and safety laws – and laws enacted by municipal governments. Perversely, the law would allow for this immunity to be granted to the very same foreign business interests that have aligned themselves with the Trump administration.

An End to the Rule of Law

Beyond the very grave dangers that these changes would pose to the physical health and well-being and material interests of Ontarians, to the ability of our environment to support that health and well-being long term, Bill 5 would deal a life-threatening blow to the rule of law in Ontario.

The hallmark of a province or country whose people enjoy freedom and the rule of law, is that it does not matter to an individual - either personally - or in business - what the people or party in government - or police and civil servants - thinks of them, personally. That is because, whether they’re applying for a development permit, applying for a drivers license, the government is bound to simply apply the fixed criteria prescribed by the elected Parliament.

In its current form, the Proposed *Special Economic Zones Act, 2025* would be the most extreme, and most absolute, in a series of bills that have been replacing these consistently-applied laws with arbitrary favour-granting by individual politicians. Bill 5 would turn free citizens bound only to follow the law, just like our fellows, into supplicants, with every privilege to gain from flattering and currying favour with the sitting government, and everything to lose from publicly criticizing or angering the government.

As a guardian of the traditions of parliamentary supremacy, democracy and the rule of law that Ontario has built over generations, it is your responsibility *not* to let this happen. Please withdraw Schedule 9 of Bill 5.'

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Gray', with a stylized, cursive flourish at the end.

Tim Gray,
Executive Director
Environmental Defence