

LEGISLATIVE ASSEMBLY

OF THE

PROVINCE OF ONTARIO

BILLS

**AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS**

SESSION

**MARCH 20 to JUNE 27, 1984
and**

**AUGUST 29, 1984
and**

OCTOBER 9 to DECEMBER 14, 1984

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Bill 1

An Act to amend the County Courts Act

The Hon. R. McMurtry
Attorney General

1st Reading March 20th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The monetary jurisdiction of the county and district courts is increased from \$15,000 to \$25,000. The new amount is that provided for in a Bill to enact the *Courts of Justice Act, 1984* and would bring the new amounts into effect before that Bill comes into force.

Bill 1**1984****An Act to amend
the County Courts Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 14 (1) (a) of the *County Courts Act*, being chapter 100 of the Revised Statutes of Ontario, 1980, as amended by subsection 1 (1) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(2) Clause 14 (1) (b) of the said Act, as amended by subsection 1 (2) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(3) Clause 14 (1) (c) of the said Act, as amended by subsection 1 (3) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in both instances where it occurs in the amendment of 1981 and inserting in lieu thereof in each instance “\$25,000”.

(4) Clause 14 (1) (d) of the said Act, as amended by subsection 1 (4) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(5) Clause 14 (1) (e) of the said Act, as amended by subsection 1 (5) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(6) Clause 14 (1) (f) of the said Act, as amended by subsection 1 (6) of the *County Courts Amendment Act, 1981*, being

chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(7) Clause 14 (1) (h) of the said Act, as amended by subsection 1 (8) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(8) Clause 14 (1) (i) of the said Act, as amended by subsection 1 (9) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(9) Clause 14 (1) (j) of the said Act, as amended by subsection 1 (10) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

Application

(10) This section does not apply to actions commenced before this section comes into force.

Repeal
1984, c. ...

2. This Act is repealed on the day section 168 of the *Courts of Justice Act, 1984* comes into force.

Commence-
ment

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

4. The short title of this Act is the *County Courts Amendment Act, 1984*.

Bill 1

*(Chapter 1
Statutes of Ontario, 1984)*

An Act to amend the County Courts Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	March 20th, 1984
<i>2nd Reading</i>	April 10th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 1**1984****An Act to amend
the County Courts Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 14 (1) (a) of the *County Courts Act*, being chapter 100 of the Revised Statutes of Ontario, 1980, as amended by subsection 1 (1) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(2) Clause 14 (1) (b) of the said Act, as amended by subsection 1 (2) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(3) Clause 14 (1) (c) of the said Act, as amended by subsection 1 (3) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in both instances where it occurs in the amendment of 1981 and inserting in lieu thereof in each instance “\$25,000”.

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(9) Clause 14 (1) (j) of the said Act, as amended by subsection 1 (10) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

Application (10) This section does not apply to actions commenced before this section comes into force.

Repeal 1984, c. 11 2. This Act is repealed on the day section 168 of the *Courts of Justice Act, 1984* comes into force.

Commencement 3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title 4. The short title of this Act is the *County Courts Amendment Act, 1984*.

Bill 2

An Act to provide for Freedom of Information and Protection of Individual Privacy

Mr. Breithaupt

1st Reading March 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides a broad and comprehensive scheme for public access to, and protection of individual privacy with respect to, information held by government.

Bill 2**1984**

**An Act to provide for Freedom of Information and
Protection of Individual Privacy**

Whereas the people of Ontario believe in the dignity, worth, and equality of opportunity of every person and believe that equality is the foundation upon which free, democratic government is based; and whereas the people of Ontario are committed to the highest principles of free, democratic government; and whereas it is recognized that reasonable openness in government and the protection of the public from unwarranted secrecy and unwarranted invasion of personal privacy promote the principles of free, democratic government;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purposes of this Act are,

Purposes

- (a) to provide a right of access to information under the control of an institution in accordance with the principles that,
 - (i) government information should be available to the public,
 - (ii) necessary exceptions to the right of access should be limited and specific, and
 - (iii) decisions on the disclosure of government information should be reviewed independently of government; and
- (b) to protect the privacy of individuals with respect to personal information about themselves held by an institution and to provide individuals with a right of access to such information.

2. In this Act,

Interpretation

- (a) "data bank" means a collection of personal information which is organized and capable of being retrieved;
- (b) "Data Protection Authority" means the body established under subsection 39 (1);
- (c) "data subject" means a person about whom information is gathered and stored;
- (d) "Director of Fair Information Practices" and "Director" mean the Director appointed under subsection 20 (1);
- (e) "Fair Information Practices Tribunal" and "Tribunal" mean the tribunal established under subsection 21 (1);
- (f) "head", in respect of an institution, means a person charged with record keeping responsibilities for the institution who has been designated as such by order of the responsible minister;
- (g) "institution" means a department, agency, division, board, commission, corporation or other body,
 - (i) that is financed exclusively from the Consolidated Revenue Fund,
 - (ii) at least 50 per cent of the shares of which are owned by the Crown in right of Ontario, or
 - (iii) where the Government of Ontario has the power to appoint a majority of the governing body of the institution;
- (h) "personal information" means recorded information about an identifiable individual, including,
 - (i) information relating to the race, national or ethnic origin, colour, religion, age, sex or marital status of the individual,
 - (ii) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

- (iii) any identifying number, symbol or other particular assigned to the individual,
 - (iv) the address, fingerprints or blood type of the individual,
 - (v) the personal opinions or views of the individual except where they relate to another individual,
 - (vi) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the contents of the original correspondence,
 - (vii) the views or opinions of another individual about the individual, and
 - (viii) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;
- (i) "record" means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,
- (i) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microform, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
 - (ii) subject to the regulations, any record that does not exist but is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; and
- (j) "responsible minister" means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 45.

PART I

FREEDOM OF INFORMATION

Right of
access

3. Every person has a right of access to a record under the control of an institution.

Request

4.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that has control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

Sufficiency of
detail

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Notice by
head

5. Where a person requests access to a record, the head of the institution to which the request is made shall, subject to section 7, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part thereof.

Transfer of
request

6.—(1) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may, subject to the regulations, transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

When
transferred
request
deemed
made

(2) For the purposes of this section, where a request is transferred under subsection (1), the request shall be deemed to have been made to the institution to which it is transferred on the day the institution to which the request was originally made received it.

Greater
interest

(3) For the purpose of subsection (1), an institution has a greater interest in a record than another institution if,

- (a) the record was originally produced in or for such institution; or

- (b) in the case of a record not originally produced in or for an institution, such institution was the first institution to receive the record or a copy thereof.

7.—(1) A head may extend the time limit set out in section 5 or subsection 6 (1) for a period of time that is reasonable in the circumstances, where, Extension of time

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit set out in section 5 or subsection 6 (1) would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit set out in section 5 or subsection 6 (1) are necessary to comply with the request.

(2) Where a head extends the time limit under subsection (1), the head shall give the person who made the request written notice of the extension setting out, Notice of extension

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Director to review the extension.

8.—(1) Where a head refuses to give access to a record or a part thereof, the head shall state in the notice given under section 5, Contents of notice of refusal

- (a) where the record does not exist, that it does not exist; or
- (b) where the record exists,
- (i) the specific provision of this Act under which access is refused,
- (ii) an explanation of the basis for the conclusion that the provision named in subclause (i) applies to the record,
- (iii) the name and office of the person responsible for making the decision to refuse access, and
- (iv) that the person who made the request may ask the Director to review the decision.

Deemed
refusal

(2) Where a head fails to comply with section 5 or 7, the head is, for the purposes of this Act, deemed to have refused to give access to the record.

Reasonable
access fee

9.—(1) The head of an institution to which a request is made under subsection 4 (1) may require the person who made the request to pay a fee covering the institution's costs of searching, reproduction and shipping if it is reasonable in all the circumstances to do so.

Review

(2) A person who is required to pay a fee under subsection (1) may ask the Director to review the head's decision to charge a fee.

Copy of
record

10.—(1) Subject to subsection (2), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations.

Access to
original
record

(2) A head has discretion to allow the person who is given access to the record to examine it or a part thereof in accordance with the regulations.

Exemption re
Cabinet
records

11.—(1) A head may refuse to disclose a record whose disclosure would reveal the substance of deliberations of the Executive Council, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing proposals or recommendations submitted, or prepared for submission, by a minister of the Crown to the Executive Council;
- (c) a record containing background explanations, analyses of problems or policy options submitted or prepared for submission by a minister of the Crown to the Executive Council for its consideration in making decisions, before such decisions are made;
- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;

- (e) a record containing briefings to ministers of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation.

(2) A head may refuse to disclose a record containing advice or recommendations of public servants and consultants retained by an institution, unless it is,

Exemption
re advice to
government

- (a) a record which contains mainly factual material;
- (b) a statistical survey;
- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record prepared by an institution charged with the responsibility of monitoring environmental quality;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;
- (g) a feasibility study or other technical study, including a cost estimate, relating to a proposed government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal for the reorganization of the function of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval;
- (j) a report of an inter-departmental committee task force or similar body, or of a committee or task force within an institution, which has been estab-

lished for the purpose of preparing a report on a particular topic;

- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) a final proposal for the preparation of subordinate legislation;
- (m) a document to which clause 16 (1) (a) or (b) applies; or
- (n) a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling, and any reason explaining the decision, order or ruling, whether or not the reason,
 - (i) is contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or
 - (ii) was given by the officer who made the decision, order or ruling or was incorporated by reference into the decision, order or ruling.

Exemption
re law
enforcement

(3) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

- (a) interfere with a law enforcement proceeding;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (c) reveal investigative techniques and procedures currently in use or likely to be used;
- (d) disclose the identity of a confidential source of information, or disclose information furnished only by the confidential source;

- (e) endanger the life or physical safety of a law enforcement officer;
- (f) deprive a person of the right to a fair trial or impartial adjudication;
- (g) interfere with the gathering of intelligence information respecting organizations or persons;
- (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) promote the commission of offences or hamper the control of crime.

(4) Subsection (3) does not apply to a record,

Exceptions

- (a) revealing that the scope of any law enforcement investigation has exceeded the limits imposed by law;
- (b) revealing the use of illegal law enforcement techniques or procedures;
- (c) containing any general outline of the structure and programs of a law enforcement agency;
- (d) that is a report on the degree of success achieved in a law enforcement program or programs, including statistical analysis;
- (e) that is a report prepared in the course of routine law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law other than the criminal law; and

- (f) that is a report on a law enforcement investigation where the substance of the report has been disclosed to the person or body that was the subject of the investigation.

Refusal to confirm or deny existence of record

- (5) Despite subsection 8 (1), a head may refuse to confirm or deny the existence of a record to which subsection (3) applies.

Review

- (6) Where a head refuses to confirm or deny the existence of a record, the person who made the request may ask the Director to review the head's decision.

Exemption re relations with other governments

- (7) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

- (a) prejudice the relations of the Government of Ontario or the Government of Canada with a foreign government;
- (b) prejudice the defence of Canada; or
- (c) reveal information given or received in confidence by the Government of Ontario.

Exemption re commercial information

- (8) A head may refuse to disclose a record that reveals a trade secret or other commercial or financial information, except for statistical aggregates, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in information of the same kind no longer being supplied to the institution, where,
 - (i) the information was supplied to the institution on a confidential basis, and
 - (ii) where it is in the public interest that similar information continue to be supplied to the institution;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) unreasonably expose the institution or a commercial or financial enterprise, including a Crown corpora-

tion, to disadvantage in competitive activity or in a present or likely process of negotiation, contractual arrangement or similar process.

(9) Subsection (8) does not apply to a record where the public interest in its disclosure outweighs the commercial interest in its continued confidentiality. Exception

(10) A head may refuse to disclose a record that is subject to solicitor-client privilege and was prepared with a view to or for the purpose of litigation. Solicitor-client privilege

(11) A head may refuse to disclose a record that is specifically exempted from disclosure by a statute that, Exemption re statutory confidentiality provisions

(a) requires that the record be withheld from the public in such a manner as to give the head no discretion; or

(b) establishes particular criteria for withholding or refers to particular types of records to be withheld from the public.

(12) A head may refuse to disclose a record where disclosure could reasonably be expected to threaten the safety of an individual. Exemption re danger to safety

12.—(1) A head shall not disclose personal information to any person other than the individual except, Personal privacy

(a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;

(b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the record pertains;

(c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;

(d) under an Act of Ontario or Canada that expressly authorizes the disclosure;

(e) for a research purpose if,

(i) the use of disclosure is consistent with the conditions or reasonable expectations of use

and disclosure under which the personal information was provided, collected or obtained,

- (ii) the research purpose for which the disclosure is to be made,
 - (A) cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (B) justifies the risk to the individual which additional exposure of the information might bring,
- (iii) the qualifications of those who will conduct the research justify the conclusion that the research objectives will be satisfactorily achieved,
- (iv) the research proposal is soundly designed in terms of its ability to achieve the stated research objectives, its cost effectiveness, and its minimization of disruption of the operations of the institution, and
- (v) terms and conditions relating to,
 - (A) security and confidentiality,
 - (B) the destruction of the individual identifier or identifiers associated with the record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and
 - (C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,

have been approved by the Data Protection Authority under clause 40 (g) and the person obtaining the record has filed with the Data Protection Authority a written statement indicating that the person understands and will abide by the terms and conditions; or

- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

(2) A person or tribunal, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider whether,

Criteria re invasion of privacy

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the data subject will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable; and
- (h) the personal information has been supplied by the data subject in confidence,

and shall take into account any other relevant circumstance.

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

Presumed invasion of privacy

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation, except for personal information confirming an individual's presence in a health care facility;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment history;
- (e) was obtained on an income tax return or similar return or gathered by an institution for the purpose of collecting an income tax or similar tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations;
- (h) indicates the individual's racial or ethnic origin or religious or political beliefs and associations; or
- (i) is required to be kept confidential by law.

Severability
of record

13. Where an institution receives a request for access to a record that contains information which the head may refuse to disclose and information which the head may not refuse to disclose, the head shall disclose any reasonably severable portion of the record.

Publication
of
information
re
institutions

14. The Lieutenant Governor in Council shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made;
- (b) where the material referred to in sections 15, 16 and 17 has been made available;
- (c) details of all boards, councils, committees and other bodies consisting of two or more persons that form part of or have been established for the purpose of advising the institution, and whose meetings are open to the public, or whose minutes of meetings are available for public inspection; and
- (d) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

15. A head shall make available for inspection and copying by the public, at an office of the institution and at another

government office or a public library, a fully indexed compilation containing,

- (a) a description of the organization and operating procedures of the institution, including,
 - (i) the functions of and the programs administered by each office, division or branch of the institution,
 - (ii) the general types of decisions made by each such office, division or branch in the exercise of any such function or in the administration of any such program,
 - (iii) the titles of officers who have final authority to make any such decisions, and any delegation of that authority,
 - (iv) the formal and informal administrative procedures used for consultation with the public or in the making of any such delegation, and
 - (v) the general manner by which matters arising in the exercise of any function are initiated, processed, channeled and determined;
- (b) a list of the general classes or types of records prepared by or in the possession of the institution;
- (c) the title and business address of each head of the institution who has been designated under section 2 with responsibility to process requests for records and the class of records in relation to which each officer has responsibility; and
- (d) any amendment of information referred to in clauses (a), (b) and (c) which has been made available in accordance with this section.

16.—(1) A head shall make available, in the manner described in section 15, any document which has been prepared by the institution, whether before or after this Act comes into force, and issued to officers of the institution and which contains,

Institution
documents

- (a) interpretations of the provisions of any enactment or scheme administered by the institution where the interpretations are to be applied by, or are to be guidelines for, any officer who determines,

- (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,
 - (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
 - (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

Deletions

(2) A head may delete from a document made available under subsection (1) any record which the head would be entitled to refuse to disclose, except under subsection 11 (2), where the head includes in the document,

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

Amendments

(3) Subsections (1) and (2) apply to amendments to documents.

Index

(4) The documents made available under this section shall be fully indexed.

Opinions of institution

17. A head shall make available, in the manner described in section 15, an index of all the institution's final opinions, orders, including concurring and dissenting opinions, and orders made in the adjudication of cases affecting the public.

Annual report

18.—(1) A head shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Contents of report

(2) A report made under subsection (1) shall specify,

- (a) the number of requests for access to records made to the institution;
- (b) the number of refusals by the head to disclose a document, the provisions of this Act under which disclosure was refused, and the number of occasions on which each provision was invoked;
- (c) the number of applications to the Director for review of a refusal to disclose a document, the number of applications for review of a decision by the head to charge a fee under subsection 9 (1) and, in respect of each application for review of a refusal to disclose a document,
 - (i) the provision of this Act on which the head relied,
 - (ii) the decision of the Director, and
 - (iii) the details of the Director's order;
- (d) the amount of fees collected by the institution under subsection 9 (1);
- (e) the location of any reading room or other facility provided by the institution for the use of a person wishing to inspect or copy a document possessed by the institution;
- (f) the publications, documents or other information regularly on display in the reading room or other facility; and
- (g) such other information as indicates an effort by the institution to put into practice the purpose of this Act.

19.—(1) Where a head proposes to disclose a record or part thereof that in the opinion of the head may affect the interests of the data subject, the head may, within thirty days after the request for access is received, give written notice in accordance with subsection (2) to the data subject.

Notice to
data subject

(2) The notice shall contain,

Contents of
notice

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the data subject;

- (b) a description of the contents of the record or part thereof that relates to the data subject; and
- (c) a statement that the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

Extension of
time

(3) A head may extend the time set out in subsection (1) in respect of a request under this Act where the time limit set out in section 5 is extended under section 7 in respect of the same request, but no extension period under this subsection shall exceed the period of the extension under section 7.

Representa-
tion re
disclosure

(4) Where a notice is given under subsection (1),

- (a) the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed; and
- (b) the head shall, within thirty days after the notice is given, decide whether or not to disclose the record or the part thereof and give written notice of the decision to the data subject and the person who made the request.

Written
representa-
tions

(5) Representations under clause (4) (a) shall be made in writing unless the head permits them to be made orally.

Notice of
head's
decision

(6) A notice given under clause (4) (b) shall include,

- (a) a statement that the data subject may ask the Director to review the decision within twenty days after the notice is given; and
- (b) a statement that the person who made the request will be given access thereto or to a part thereof, unless within twenty days after the notice is given, a review of the decision is requested.

Access to be
given unless
data subject
appeals

(7) Where, under clause (4) (b), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof after a day twenty days after notice is given under clause (4) (b), unless the data subject asks the Director to review the decision.

Director

20.—(1) The Lieutenant Governor in Council may appoint a Director of Fair Information Practices.

(2) The Director may appoint under the *Public Service Act* such officers and employees as are considered necessary from time to time for the Director's purposes. Staff
R.S.O. 1980,
c. 418

(3) The Director shall receive such salary or remuneration and expenses as may be fixed by the Lieutenant Governor in Council by order. Remunera-
tion

(4) The accounts of the Director shall be audited annually by the Provincial Auditor. Audit

(5) The Director shall make an annual report, in accordance with subsection (6), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual
report

(6) A report made under subsection (5) shall contain, Contents of
report

(a) an indication of the nature and ultimate resolutions of reviews carried out under subsection 23 (1);

(b) an assessment of the extent to which institutions are complying with this Act;

(c) the Director's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to the Act and regulations.

21.—(1) The Fair Information Practices Tribunal is hereby established. Tribunal
established

(2) The Tribunal shall be composed of a chairman and at least three other members to be appointed by the Lieutenant Governor in Council. Composition

(3) The members of the Tribunal shall receive such salaries or remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remunera-
tion

(4) The chairman of the Tribunal shall report annually upon the affairs of the Tribunal to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual
report

(5) The chairman of the Tribunal shall from time to time publish a summary of the Tribunal's decisions and its reasons therefor. Summary of
decisions

(6) The accounts of the Tribunal shall be audited annually by the Provincial Auditor. Audit

Staff

(7) Such officers and employees as are considered necessary from time to time for the purposes of the Tribunal may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418Review by
Director

22.—(1) A person who has made a request for access to a record, and, where section 19 applies, a data subject, may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.

Notice of
review

(2) Where the Director receives a request under subsection (1), the Director shall review the decision, upon giving notice of the review to all interested persons.

Nature of
review

23.—(1) The Director shall informally inquire into and investigate the circumstances of the decision to be reviewed and may, in writing, appoint any person to assist him or her.

Informality
R.S.O. 1980,
c. 484

(2) The *Statutory Powers Procedure Act* does not apply to a review under subsection (1).

Private
hearing

(3) The Director may conduct the review or part thereof *in camera*.

Representations
by interested
parties

(4) In the course of an inquiry or investigation the Director shall give a reasonable opportunity to make representations to all interested persons.

Consent
resolution or
order

24.—(1) After the inquiry or investigation into the circumstances of the decision is complete, the Director shall attempt to reconcile the differences between the parties and, where the dispute cannot be satisfactorily resolved on consent, shall make an order.

Terms and
conditions

(2) The Director's order may contain any terms and conditions the Director considers appropriate.

Notice of
order

(3) The Director shall give the persons who received notice of the review under subsection 22 (2) written notice of the order, including,

(a) the reasons therefor; and

(b) a statement that a person who made representations under subsection 23 (4) may appeal the order to the Fair Information Practices Tribunal.

Appeal

25.—(1) A person who made representations under subsection 23 (4) and wishes to exercise the right of appeal may

file a written notice of appeal with the Fair Information Practices Tribunal within thirty days of the date of the Director's order.

(2) Despite section 9 of the *Statutory Powers Procedure Act*, the Tribunal may hear representations by the head in the absence of the person who made the request where the Tribunal considers that a private hearing will facilitate a full explanation of the reasons for the decision.

Tribunal may hold private hearing
R.S.O. 1980, c. 484

26.—(1) This Act does not limit the information available to a litigant under the doctrine of Crown privilege.

Crown privilege

(2) This Act does not affect the power of a court or Tribunal to compel a witness to testify or compel the production of a document.

Powers of courts and tribunals

PART II

PROTECTION OF INDIVIDUAL PRIVACY

27. No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, or necessary to the proper administration of a lawfully authorized administration activity.

Protection of personal information

28.—(1) Personal information that is intended to be used by an institution for an administrative purpose shall only be collected directly from the individual unless,

Direct collection

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 31; or
- (c) the Data Protection Authority has authorized the particular act of collection under clause 40 (d).

(2) Where personal information is collected on behalf of an institution, the head shall inform the individual of,

Notice to data subject

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used;
- (c) whether disclosure is voluntary or mandatory and the consequences of failure to provide the personal information;

- (d) the anticipated use and dissemination of the personal information;
- (e) alternative sources for verification of the personal information;
- (f) the name, title and business telephone number of a public official who can answer the individual's questions about the collection; and
- (g) whether the individual will have access or correction rights with respect to the personal information.

Retention of personal information

29.—(1) Personal information that has been used by an institution for an administrative purpose shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the personal information.

Accuracy and completeness

(2) A head shall ensure that the institution complies with the regulations with respect to the accuracy and completeness of personal information that is used for an administrative purpose.

Disposal of personal information

(3) A head shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the responsible minister.

Protection of personal information

30. Personal information under the control of an institution shall not be used by the institution without the consent of the individual except,

- (a) for the purpose for which it was obtained or compiled or for a use consistent with the purpose; or
- (b) for a purpose for which the information may be disclosed to the institution under section 31.

Where disclosure permitted

31.—(1) A head may disclose personal information under the control of the institution,

- (a) in accordance with Part I;
- (b) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

- (c) under statutory provisions that establish specific criteria for the use or disclosure of the information;
- (d) where disclosure is by a law enforcement institution to another law enforcement institution in Canada or to a law enforcement institution in a foreign country under a written agreement, treaty or legislative authority;
- (e) in compelling circumstances affecting the health and safety of an individual;
- (f) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (g) to a member of the Legislative Assembly who has been authorized by a constituent to make an inquiry on his behalf or, where the constituent is incapacitated, has been authorized by a relative or legal representative of the constituent;
- (h) to the Provincial Auditor;
- (i) to the Ombudsman;
- (j) to the Data Protection Authority;
- (k) to the Director of Fair Information Practices;
- (l) to the Fair Information Practices Tribunal;
- (m) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (n) to the Archives of Ontario; and
- (o) to Statistics Canada.

(2) A head shall retain a copy of every request received by the institution under clause (1) (d) for the period of time as may be prescribed by regulation and shall, on the request of the Data Protection Authority, make the copy available to the Authority.

Retention of requests re law enforcement

32.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal data bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clause

Retention of record of use

34 (1) (d) and shall attach or link the record of use to the personal information.

Record of
use part of
personal
information
Notice and
publication

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

(3) Where personal information in a data bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not included in the statement of consistent uses set forth under clause 34 (1) (d), the head shall,

- (a) forthwith notify the Data Protection Authority of the use or disclosure; and
- (b) ensure that the use is included in the next statement of consistent uses set forth in the index.

Data
banks

33. A head shall cause to be included in a data bank all personal information under the control of the institution that,

- (a) has been used, is being used or is available for use for an administrative purpose; or
- (b) is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

Personal
information
data bank
index

34.—(1) The responsible minister shall publish at least once each year an index of all data banks containing personal information setting forth, in respect of each data bank,

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) the principal uses of the personal information and the categories of users to whom disclosures from the system are typically made;
- (e) any other uses and purposes for which personal information in the data bank is used or disclosed on a regular basis;
- (f) the categories of individuals for whom records are maintained in the system;

- (g) the policies and practices applicable to the system with respect to storage, retrievability, access controls, retention and disposal of personal information maintained in the system; and
- (h) the title, business address, and business telephone number of the official responsible for the operation of the data bank.

(2) The responsible minister shall cause the index referred to in subsection (1) to be made available throughout Ontario in conformity with the principle that every person is entitled to reasonable access to the index.

Availability of index

35.—(1) Every individual has a right of access to,

Right of access to personal information

- (a) any personal information about the individual contained in a data bank under the control of an institution; and
- (b) any other personal information about the individual under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

(2) Every individual who is given access under clause (1) (a) to personal information about the individual that has been used, is being used or is available for use for an administrative purpose is entitled to,

Right of correction

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed for use for an administrative purpose within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

36.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that has control of the personal

Request

information and shall identify the data bank or otherwise identify the location of the personal information.

Access
procedures

(2) Subsection 4 (2), and sections 5, 6, 7, 8 and 13 apply with all necessary modifications to a request made under subsection (1).

Manner of
access

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall,

- (a) permit the individual to examine the personal information; or
- (b) provide the individual with a copy thereof.

Compre-
hensible form

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used.

Exemptions

37. A head may refuse to disclose personal information,

- (a) to which subsections 11 (1), (3), (4), (5), (7), (8), (9), (10) and (11) apply;
- (b) whose disclosure would constitute an unwarranted invasion of another individual's personal privacy;
- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for the awarding of government contracts and other benefits if its disclosure would reveal the identity of a source who furnished information to the institution in confidence;
- (d) that is medical information whose disclosure would prejudice the health of the data subject;
- (e) that is a correctional record whose disclosure could reasonably be expected to,
 - (i) seriously disrupt an individual's institutional, parole, or mandatory supervision program,
 - (ii) reveal information supplied in confidence, or
 - (iii) result in physical or other harm to the individual or another person; or

(f) that is a research or statistical record.

38.—(1) An individual who has made a request for access to personal information under subsection 36 (1) or a request for correction under subsection 35 (2) may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.

Review by
Director

(2) Subsection 22 (2), and sections 23, 24 and 25 apply, with all necessary modifications, to a request for review under subsection (1).

Review and
further
appeal

39.—(1) The Data Protection Authority is hereby established.

Authority
established

(2) The Authority shall be composed of a chairman and at least four other members to be appointed by the Lieutenant Governor in Council.

Composition

(3) The chairman of the Authority shall report annually upon the affairs of the Authority to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

(4) The accounts of the Authority shall be audited annually by the Provincial Auditor.

Audit

(5) Such officers and employees as are considered necessary from time to time for the purposes of the Authority may be appointed under the *Public Service Act*.

Staff

R.S.O. 1980,
c. 418

40. The Data Protection Authority may,

Powers and
duties of
Authority

- (a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;
- (b) advise on the interpretation and implementation of this Act;
- (c) require an institution to,
 - (i) cease a collection practice, and
 - (ii) destroy collections of personal information,
 that contravene this Act;

- (d) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (e) engage in or commission research into issues affecting the purposes of this Act;
- (f) receive representations from the public concerning the operation of this Act; and
- (g) consider and approve or reject terms and conditions related to a research proposal.

Regulations

41. Subject to the approval of the Lieutenant Governor in Council, the Data Protection Authority may make regulations,

- (a) respecting the manner of access to original records under section 10;
- (b) respecting the manner of access to personal information under subsection 36 (3);
- (c) respecting records which may be produced from machine readable records;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution and used for an administrative purpose;
- (f) prescribing time periods for the purposes of subsections 29 (1) and 31 (2); and
- (g) respecting any matter necessary to carry out effectively the purpose of this Act.

Offences

42.—(1) No person shall,

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a data bank that contravenes this Act; or

- (c) obtain or attempt to obtain personal information under false pretences.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000. Penalty

43. An individual may by action recover from the Crown in right of Ontario pecuniary and other damages suffered as a result of, Right of action

- (a) a refusal to correct inaccurate personal information under subsection 35 (2);
- (b) a contravention of this Act relating to the collection or disclosure of personal information.

44. A head may by order delegate any of his or her powers and duties under this Act to an officer or employee of the institution. Head may delegate

45. The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act. Responsible minister

46.—(1) The Standing Committee on Procedural Affairs shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Government of Ontario regarding, Review of other Acts

- (a) the repeal of unnecessary or inconsistent provisions; and
- (b) the amendment of provisions that do not conform to the purposes of this Act.

(2) A confidentiality provision in an Act in existence on the day this Act comes into force is deemed to be repealed on a day two years after the day this Act comes into force unless it is amended or reaffirmed by the Legislative Assembly. Deemed repeal

47. This Act binds the Crown. Crown bound

48. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

49. The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1984*. Short title

Bill 3

An Act to amend the Legislative Assembly Act

Mr. Breithaupt

1st Reading March 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the appointment of a Curator of Queen's Park. The Curator of Queen's Park will be responsible for advising the Speaker of the Legislative Assembly and the Lieutenant Governor in Council concerning the conservation, protection and preservation of the heritage of Queen's Park.

Bill 3

1984

**An Act to amend
the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

75a.—(1) A Curator of Queen's Park shall be appointed by the Lieutenant Governor in Council upon such terms and conditions as the Speaker may recommend. Curator of Queen's Park

(2) The Curator of Queen's Park shall hold office during good behaviour but shall be removable from office for cause by the Lieutenant Governor in Council on address of the Assembly. Tenure of office

(3) The Curator of Queen's Park shall, Duties of Curator

- (a) compile and maintain an inventory of all structures, objects and locations at Queen's Park that have historical, architectural or aesthetic significance;
- (b) advise and make recommendations to the Speaker and to the Lieutenant Governor in Council on any matter relating to the conservation, protection and preservation of the heritage of Queen's Park including any renovation, restoration or alteration to a structure, object or location listed in the inventory that the Curator considers advisable.

(4) Such parts of the area of land within the area bounded by Queen's Park Crescent as may be designated by the Lieutenant Governor in Council shall constitute Queen's Park for determining the duties of the Curator of Queen's Park and the order in council shall be laid before the Assembly. Queen's Park

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Legislative Assembly Amendment Act, 1984*.

Bill 4

An Act to amend the Wine Content Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Currently, the Act provides that a certain prescribed quota of imported grapes or wine may be used by a licensed manufacturer when making Ontario wine. This applies until the 31st day of August, 1984 after which date no imported grapes or wine may be used. The amendment changes the date to the 31st day of August, 1986.

Bill 4**1984****An Act to amend the Wine Content Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, is amended by striking out "1984" in the second line and inserting in lieu thereof "1986".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Wine Content Amendment Act, 1984*. Short title

Bill 4

(Chapter 2
Statutes of Ontario, 1984)

An Act to amend the Wine Content Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 17th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 4**1984****An Act to amend the Wine Content Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, is amended by striking out "1984" in the second line and inserting in lieu thereof "1986".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Wine Content Amendment Act, 1984*. Short title

Bill 5

An Act in respect of Extra-Provincial Corporations

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is a revision of Part VIII of the *Corporations Act* which deals with extra-provincial corporations.

The main changes from the existing law are as follows:

1. Corporations incorporated by Canada or any province or territory in Canada will not require a licence to operate in Ontario. (s. 4 (1))
2. Definition of carrying on business is revised. Non-profit activities are included. (s. 1 (2, 3))
3. Corporations not described in paragraph 1 will continue to require a licence. (s. 4 (2))
4. Procedures are set out for determining whether the name of an extra-provincial corporation is acceptable for use in Ontario. (ss. 9, 10)
5. Provisions respecting agents for service are codified. (s. 19)
6. Penalty provisions are updated. (s. 20)

Bill 5**1984****An Act in respect of Extra-Provincial Corporations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “business” includes undertaking and non-profit activities;
- (b) “court” means the High Court of Justice;
- (c) “Director” means the Director appointed under section 3;
- (d) “endorse” includes imprinting a stamp, in accordance with section 5, on the face of an application sent to the Director;
- (e) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislative Assembly;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (g) “Ministry” means the Ministry of the Minister;
- (h) “prescribed” means prescribed by the regulations;
- (i) “send” includes deliver or mail;
- (j) “regulations” means the regulations made under this Act.

(2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,

Carrying on
business in
Ontario

- (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
- (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
- (c) it otherwise carries on its business in Ontario.

Idem

(3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,

- (a) it takes orders for or buys or sells goods, wares and merchandise; or
- (b) offers or sells services of any type,

by use of travellers or through advertising or correspondence.

Classes of extra-provincial corporations

2.—(1) Extra-provincial corporations shall be classified into the following classes:

Class 1. Corporations incorporated or continued by or under the authority of an Act of a legislature of a province of Canada.

Class 2. Corporations incorporated or continued by or under the authority of an Act of the Parliament of Canada including corporations incorporated under an ordinance of the Yukon or Northwest Territories.

Class 3. Corporations incorporated or continued under the laws of a jurisdiction outside of Canada.

Idem

(2) Corporations incorporated under an ordinance of the Northwest Territories but governed by the corporation laws of a province are corporations within class 1.

Director

3. There shall be a Director appointed by the Minister who shall perform such duties and have such powers as are assigned to him by this Act.

Where licence not required R.S.O. 1980, c. 96

4.—(1) Subject to this Act, the *Corporations Information Act* and any other Act, an extra-provincial corporation within class 1 or 2 may carry on any of its business in Ontario without obtaining a licence under this Act.

Carrying on business without licence prohibited

(2) No extra-provincial corporation within class 3 shall carry on any of its business in Ontario without a licence under

this Act to do so, and no person acting as representative for or agent for any such extra-provincial corporation shall carry on any of its business in Ontario unless the corporation has a licence under this Act.

5.—(1) An extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending to the Director two originals of the application signed by a director or officer of the corporation, all other required documents and the prescribed fee.

Application for licence, etc.

(2) Where the Director receives an application in accordance with subsection (1) he may endorse on each original a licence, amended licence or a termination of the licence, setting out the day, month and year of endorsement and a corporation number and, where he so endorses, he shall,

Where Director endorses

- (a) file one original of the application with the endorsement;
- (b) send to the corporation or its representative one original of the application with the endorsement thereon; and
- (c) publish notice of the endorsement in *The Ontario Gazette*.

(3) An endorsement under subsection (2) may be dated as of the date the Director receives the originals of any application together with all other required documents executed in accordance with this Act and the prescribed fees or as of any later date acceptable to the Director specified by the person who submitted the application.

Date of endorsement

(4) An endorsement under subsection (2) is effective on the date shown thereon notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing by him is taken at a later date.

When endorsement effective

(5) The Director may make a licence or an amended licence subject to restrictions on the business of a corporation and to such other limitations or conditions as are specified in the licence or amended licence.

Restrictions on licence

6.—(1) Where the Director refuses to endorse any application required by this Act to be endorsed by him before it becomes effective, he shall give written notice to the person who delivered the application of his refusal, specifying the reasons therefor.

Where endorsement refused

Idem

(2) Where, within six months after an application referred to in subsection 5 (1) has been sent to the Director, the Director has not endorsed the application, he shall be deemed for the purposes of section 8 to have refused to endorse it.

Director may cancel licence

7.—(1) Where sufficient cause is shown, the Director, after giving an extra-provincial corporation within class 3 an opportunity to be heard, may by order cancel the licence of the corporation upon such date as is fixed in the order.

Review by Director

(2) If no proceedings have been taken under section 8, the Director may at any time review an order made under subsection (1) and may affirm, revoke or vary any such order if in his opinion it is appropriate to do so.

Interpretation

(3) In this section, “sufficient cause” includes,

- (a) failure to pay any prescribed fee;
- (b) failure to comply with section 19;
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; and
- (d) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act* in circumstances where cancellation of the licence is in the public interest.

R.S.O. 1980, c. 96

R.S.C. 1970, c. C-34
R.S.O. 1980, c. 400

Appeal

8.—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse an application;
- (b) to make or refuse to make an order under section 11;
- (c) to cancel a licence under section 7 or subsection 12 (2);
- (d) to require that a corrected licence be endorsed under section 18; or
- (e) to impose conditions on a licence or amended licence,

may appeal to the Divisional Court.

(2) The Director shall certify to the registrar of the Divisional Court,

Certification
by Director

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) other material that is relevant to the appeal.

(3) The Director is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Director may
be heard

(4) Where an appeal is taken under this section, the court may direct the Director to make such decision or do such other act that the Director is empowered to do under this Act, as the court thinks proper, having regard to the material and submissions before it.

Court order

(5) Notwithstanding an order of the court under subsection (4), the Director has power to make any further decision where he is presented with new material or where there is a material change in the circumstances and every such decision is subject to this section.

Further
orders by
Director

9. An extra-provincial corporation may, subject to its incorporating instrument, the *Corporations Information Act* and any other Act, use and identify itself in Ontario by a name other than its corporate name and, in the case of an extra-provincial corporation within class 3, may be licensed to use such name.

Use of other
name
R.S.O. 1980,
c. 96

10.—(1) Notwithstanding section 9 and subject to subsection (2), an extra-provincial corporation within class 1 or 3 shall not use or identify itself in Ontario by a name,

Where name,
etc., likely
to deceive

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is used, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on its business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that does not meet the requirements prescribed by the regulations.

Exception

(2) An extra-provincial corporation within class 1 or 3 may use or identify itself in Ontario by a name described in clause (1) (b) upon compliance with such conditions as may be prescribed.

Filing material

(3) An extra-provincial corporation to which this section applies shall file with the Director such documents relating to the name or proposed name as may be prescribed.

Where contravention

11.—(1) If an extra-provincial corporation within class 1 or 3, through inadvertence or otherwise, uses or identifies itself by a name contrary to section 10, the Director may, after giving the extra-provincial corporation an opportunity to be heard, order it to cease using the name in Ontario and, where the name is contained in a licence, the Director may order that the corporation apply for an amended licence under a different name within the time specified in the order.

Director may apply for order under s. 14

(2) Where an extra-provincial corporation within class 1 fails to comply with an order made under subsection (1), the Director may apply to the Court for an order under section 14.

Director may cancel licence

(3) Where an extra-provincial corporation within class 3 fails to apply for an amended licence pursuant to an order under subsection (1), the Director may cancel the licence.

Where change of name or jurisdiction

12.—(1) An extra-provincial corporation within class 3 shall make application for an amended licence where,

- (a) it has changed its name or has been ordered to change its name under section 11; or
- (b) it has continued under the laws of another jurisdiction.

(2) Where an extra-provincial corporation within class 3 has not carried on any of its business in Ontario for any two consecutive years, the extra-provincial corporation shall make application for termination of its licence or, if it does not do so, the Director, upon giving the corporation an opportunity to be heard, may by order cancel the licence.

Where corporation ceases to carry on business

13.—(1) Where a licence contains an error,

Endorsement in error

- (a) the corporation shall, upon the request of the Director and after being given an opportunity to be heard, return the licence; or
- (b) the corporation may apply to the Director for a corrected licence and upon such resolutions being passed and other steps taken as the Director may require,

the Director may endorse a corrected licence.

(2) A corrected licence endorsed under subsection (1) may bear the date of the licence it replaces.

Date on corrected licence

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette*.

Notice of correction

14.—(1) The Director may apply to the court for an order prohibiting an extra-provincial corporation within class 1 from carrying on its business in Ontario or such other order as he may think fit and, where sufficient cause exists, the court may make an order under subsection (2).

Court order

(2) Upon an application under this section the court may make any interim or final order it thinks fit.

Idem

(3) In subsection (1), “sufficient cause” includes,

Interpretation

- (a) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*;

R.S.O. 1980, c. 96

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

(b) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where an order of prohibition is in the public interest; and

(c) failure to comply with an order made under section 11.

Notice not
deemed

15. No person is affected by or is deemed to have knowledge of the contents of a document concerning an extra-provincial corporation by reason only that the document has been filed with the Director.

Certificate

16. The Director shall, upon payment of the prescribed fee, issue a certificate certifying,

(a) as to the endorsement or non-endorsement of a licence for any corporation;

(b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act; or

(c) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as an officer or agent for service of the corporation named in the certificate.

Delegation
by Director

17.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

Signing

(2) Where this Act requires or authorizes the Director to endorse a licence or to certify any fact, the licence or certificate shall be signed by the Director or any other person designated for the purpose by the regulations.

Evidence

(3) A licence or certificate referred to in subsection (2) or a certified copy thereof when introduced as evidence in any civil, criminal or administrative action or proceeding is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.

Reproducing
signature

(4) For the purposes of subsections (2) and (3), any signature authorized under this section may be printed or otherwise mechanically reproduced.

18.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. Verification
by affidavit

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. Evidence
under oath

19.—(1) Every extra-provincial corporation within class 3 that carries on its business in Ontario shall ensure the continuing appointment, at all times, of an individual, of the age of eighteen years or older, who is resident in Ontario or a corporation having its head office or registered office in Ontario as its agent for service in Ontario on whom service of process, notices or other proceedings may be made and service on the agent shall be deemed to be service on the corporation. Agent for
service

(2) The appointment shall be in the prescribed form and shall accompany the application for a licence. Appointment
form

(3) Where the name, address or any other particular set out in the appointment of an agent changes or where an agent is substituted, the extra-provincial corporation shall forthwith file a revised appointment in the prescribed form with the Director. Revised
appointment

(4) Any matter sent by the Director by prepaid post, Service by
Director

(a) to an agent referred to in subsection (1) addressed to him at the latest address shown on the records of the Director; or

(b) to the head or registered office of the extra-provincial corporation at the latest address shown on the records of the Director,

shall be deemed to have been served on the extra-provincial corporation on the fifth business day after the day of mailing.

20.—(1) Every person who, without reasonable cause, Penalty

(a) contravenes this Act or the regulations;

(b) contravenes a condition of a licence; or

(c) fails to observe or comply with an order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$25,000.

Idem

(2) Where an extra-provincial corporation is guilty of an offence under subsection (1), every director or officer of the corporation and every person acting as its representative in Ontario who authorized, permitted or acquiesced to such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Ability to maintain action

21.—(1) An extra-provincial corporation within class 3 that is not in compliance with section 19 or has not obtained a licence when required by this Act, is not capable of maintaining any action or any other proceeding in any court or tribunal in Ontario in respect of any contract made by it.

Correcting default

(2) Where a default referred to in subsection (1) has been corrected, an action or other proceeding may be maintained as if the default had been corrected before the institution of the action or other proceeding.

Power to hold land

22. Every corporation,

- (a) within class 1 or 2;
- (b) within class 3 that has a licence under this Act; and
- (c) that is exempt from the licensing requirement under this Act,

has power to acquire, hold and convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking.

Effect of licence under R.S.O. 1980, c. 95

23.—(1) Where a licence has been issued to an extra-provincial corporation within class 3 under Part VIII of the *Corporations Act* or a predecessor thereof,

- (a) the licence remains in effect and shall be deemed to have been endorsed under this Act;
- (b) the powers of the extra-provincial corporation shall be deemed to be restricted as set out in the existing licence; and
- (c) the attorney for service previously appointed continues in office and the provisions of this Act with respect to agents for service apply.

(2) All extra-provincial licences issued under Part VIII of the *Corporations Act* or a predecessor thereof except licences referred to in subsection (1) are cancelled on the day this section comes into force.

Licences cancelled
R.S.O. 1980,
c. 95

24.—(1) In any other Act, unless the context otherwise requires,

References in other Acts

(a) a reference to an extra-provincial corporation is deemed to be a reference to an extra-provincial corporation under this Act; and

(b) a reference to an extra-provincial corporation that is licensed or required to be licensed under Part VIII of the *Corporations Act* means an extra-provincial corporation within class 1 or 3.

(2) Where a corporation within class 1 or 2 would enjoy an exemption or a benefit under another Act if it had an extra-provincial licence, the corporation shall be deemed to have a licence for the purpose of the other Act.

Where corporation deemed to have licence

25. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act, including, without limiting the generality of the foregoing, regulations,

Regulations

(a) requiring the payment of fees for any matter that the Director is required or authorized to do under this Act and prescribing the amounts thereof;

(b) prescribing forms for use under this Act and providing for their use;

(c) designating officers of the Ministry for the purposes of endorsing licences and issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;

(d) respecting names of extra-provincial corporations or classes thereof;

(e) prohibiting the use of any words or expressions in a corporate name;

(f) defining any word or expression used in clause 10 (1) (b);

(g) prescribing requirements for the purposes of clause 10 (1) (c);

- (h) prescribing conditions for the purposes of subsection 10 (2);
- (i) prescribing the documents relating to names to be filed with the Director under subsection 10 (3);
- (j) respecting the evidence required upon the application for a licence under this Act including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (k) respecting the appointment and continuance by extra-provincial corporations of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such agent;
- (l) prescribing the conditions and limitations that may be specified in licences;
- (m) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon such terms and conditions, if any, as may be prescribed;
- (n) prescribing any matter required by this Act to be prescribed.

Revocation

26. Part VIII of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

27. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

28. The short title of this Act is the *Extra-Provincial Corporations Act, 1984*.

Bill 5

An Act in respect of Extra-Provincial Corporations

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 22nd, 1984

2nd Reading April 17th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill is a revision of Part VIII of the *Corporations Act* which deals with extra-provincial corporations.

The main changes from the existing law are as follows:

1. Corporations incorporated by Canada or any province or territory in Canada will not require a licence to operate in Ontario. (s. 4 (1))
2. Definition of carrying on business is revised. Non-profit activities are included. (s. 1 (2, 3))
3. Corporations not described in paragraph 1 will continue to require a licence. (s. 4 (2))
4. Procedures are set out for determining whether the name of an extra-provincial corporation is acceptable for use in Ontario. (ss. 9, 10)
5. Provisions respecting agents for service are codified. (s. 19)
6. Penalty provisions are updated. (s. 20)

Bill 5**1984****An Act in respect of Extra-Provincial Corporations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “business” includes undertaking and non-profit activities;
- (b) “court” means the High Court of Justice;
- (c) “Director” means the Director appointed under section 3;
- (d) “endorse” includes imprinting a stamp, in accordance with section 5, on the face of an application sent to the Director;
- (e) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislative Assembly;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (g) “Ministry” means the Ministry of the Minister;
- (h) “prescribed” means prescribed by the regulations;
- (i) “send” includes deliver or mail;
- (j) “regulations” means the regulations made under this Act.

(2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,

Carrying on
business in
Ontario

- (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
- (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
- (c) it otherwise carries on its business in Ontario.

Idem

(3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,

- (a) it takes orders for or buys or sells goods, wares and merchandise; or
- (b) offers or sells services of any type,

by use of travellers or through advertising or correspondence.

Classes of
extra-
provincial
corporations

2.—(1) Extra-provincial corporations shall be classified into the following classes:

Class 1. Corporations incorporated or continued by or under the authority of an Act of a legislature of a province of Canada.

Class 2. Corporations incorporated or continued by or under the authority of an Act of the Parliament of Canada including corporations incorporated under an ordinance of the Yukon or Northwest Territories.

Class 3. Corporations incorporated or continued under the laws of a jurisdiction outside of Canada.

Idem

(2) Corporations incorporated under an ordinance of the Northwest Territories but governed by the corporation laws of a province are corporations within class 1.

Director

3. There shall be a Director appointed by the Minister who shall perform such duties and have such powers as are assigned to him by this Act.

Where
licence
not required
R.S.O. 1980,
c. 96

4.—(1) Subject to this Act, the *Corporations Information Act* and any other Act, an extra-provincial corporation within class 1 or 2 may carry on any of its business in Ontario without obtaining a licence under this Act.

Carrying on
business
without
licence
prohibited

(2) No extra-provincial corporation within class 3 shall carry on any of its business in Ontario without a licence under

this Act to do so, and no person acting as representative for or agent for any such extra-provincial corporation shall carry on any of its business in Ontario unless the corporation has a licence under this Act.

5.—(1) An extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending to the Director two originals of the application signed by a director or officer of the corporation, all other required documents and the prescribed fee.

Application for licence, etc.

(2) Where the Director receives an application in accordance with subsection (1) he may endorse on each original a licence, amended licence or a termination of the licence, setting out the day, month and year of endorsement and a corporation number and, where he so endorses, he shall,

Where Director endorses

- (a) file one original of the application with the endorsement;
- (b) send to the corporation or its representative one original of the application with the endorsement thereon; and
- (c) publish notice of the endorsement in *The Ontario Gazette*.

(3) An endorsement under subsection (2) may be dated as of the date the Director receives the originals of any application together with all other required documents executed in accordance with this Act and the prescribed fees or as of any later date acceptable to the Director specified by the person who submitted the application.

Date of endorsement

(4) An endorsement under subsection (2) is effective on the date shown thereon notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing by him is taken at a later date.

When endorsement effective

(5) The Director may make a licence or an amended licence subject to restrictions on the business of a corporation and to such other limitations or conditions as are specified in the licence or amended licence.

Restrictions on licence

6.—(1) Where the Director refuses to endorse any application required by this Act to be endorsed by him before it becomes effective, he shall give written notice to the person who delivered the application of his refusal, specifying the reasons therefor.

Where endorsement refused

Idem

(2) Where, within six months after an application referred to in subsection 5 (1) has been sent to the Director, the Director has not endorsed the application, he shall be deemed for the purposes of section 8 to have refused to endorse it.

Director may cancel licence

7.—(1) Where sufficient cause is shown, the Director, after giving an extra-provincial corporation within class 3 an opportunity to be heard, may by order cancel the licence of the corporation upon such date as is fixed in the order.

Review by Director

(2) If no proceedings have been taken under section 8, the Director may at any time review an order made under subsection (1) and may affirm, revoke or vary any such order if in his opinion it is appropriate to do so.

Interpretation

(3) In this section, “sufficient cause” includes,

- (a) failure to pay any prescribed fee;
- (b) failure to comply with section 19;
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; and
- (d) a conviction of the extra-provincial corporation for an offence under the *Criminal Code (Canada)* or an offence as defined in the *Provincial Offences Act* in circumstances where cancellation of the licence is in the public interest.

R.S.O. 1980, c. 96

R.S.C. 1970, c. C-34
R.S.O. 1980, c. 400

Appeal

8.—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse an application;
- (b) to make or refuse to make an order under section 11;
- (c) to cancel a licence under section 7 or subsection 12 (2);
- (d) to require that a corrected licence be endorsed under section 18; or
- (e) to impose conditions on a licence or amended licence,

may appeal to the Divisional Court.

(2) The Director shall certify to the registrar of the Divisional Court,

Certification
by Director

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) other material that is relevant to the appeal.

(3) The Director is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Director may
be heard

(4) Where an appeal is taken under this section, the court may direct the Director to make such decision or do such other act that the Director is empowered to do under this Act, as the court thinks proper, having regard to the material and submissions before it.

Court order

(5) Notwithstanding an order of the court under subsection (4), the Director has power to make any further decision where he is presented with new material or where there is a material change in the circumstances and every such decision is subject to this section.

Further
orders by
Director

9. An extra-provincial corporation may, subject to its incorporating instrument, the *Corporations Information Act* and any other Act, use and identify itself in Ontario by a name other than its corporate name and, in the case of an extra-provincial corporation within class 3, may be licensed to use such name.

Use of other
name
R.S.O. 1980,
c. 96

10.—(1) Notwithstanding section 9 and subject to subsection (2), an extra-provincial corporation within class 1 or 3 shall not use or identify itself in Ontario by a name,

Where name,
etc., likely
to deceive

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is used, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on its business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that does not meet the requirements prescribed by the regulations.

Exception

(2) An extra-provincial corporation within class 1 or 3 may use or identify itself in Ontario by a name described in clause (1) (b) upon compliance with such conditions as may be prescribed.

Filing material

(3) An extra-provincial corporation to which this section applies shall file with the Director such documents relating to the name or proposed name as may be prescribed.

Where contravention

11.—(1) If an extra-provincial corporation within class 1 or 3, through inadvertence or otherwise, uses or identifies itself by a name contrary to section 10, the Director may, after giving the extra-provincial corporation an opportunity to be heard, order it to cease using the name in Ontario and, where the name is contained in a licence, the Director may order that the corporation apply for an amended licence under a different name within the time specified in the order.

Director may apply for order under s. 14

(2) Where an extra-provincial corporation within class 1 fails to comply with an order made under subsection (1), the Director may apply to the Court for an order under section 14.

Director may cancel licence

(3) Where an extra-provincial corporation within class 3 fails to apply for an amended licence pursuant to an order under subsection (1), the Director may cancel the licence.

Where change of name or jurisdiction

12.—(1) An extra-provincial corporation within class 3 shall make application for an amended licence where,

- (a) it has changed its name or has been ordered to change its name under section 11; or
- (b) it has continued under the laws of another jurisdiction.

(2) Where an extra-provincial corporation within class 3 has not carried on any of its business in Ontario for any two consecutive years, the extra-provincial corporation shall make application for termination of its licence or, if it does not do so, the Director, upon giving the corporation an opportunity to be heard, may by order cancel the licence.

Where corporation ceases to carry on business

13.—(1) Where a licence contains an error,

Endorsement in error

- (a) the corporation shall, upon the request of the Director and after being given an opportunity to be heard, return the licence; or
- (b) the corporation may apply to the Director for a corrected licence and upon such resolutions being passed and other steps taken as the Director may require,

the Director may endorse a corrected licence.

(2) A corrected licence endorsed under subsection (1) may bear the date of the licence it replaces.

Date on corrected licence

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette*.

Notice of correction

14.—(1) The Director may apply to the court for an order prohibiting an extra-provincial corporation within class 1 from carrying on its business in Ontario or such other order as he may think fit and, where sufficient cause exists, the court may make an order under subsection (2).

Court order

(2) Upon an application under this section the court may make any interim or final order it thinks fit.

Idem

(3) In subsection (1), “sufficient cause” includes,

Interpretation

- (a) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*;

R.S.O. 1980, c. 96

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

- (b) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where an order of prohibition is in the public interest; and
- (c) failure to comply with an order made under section 11.

Notice not
deemed

15. No person is affected by or is deemed to have knowledge of the contents of a document concerning an extra-provincial corporation by reason only that the document has been filed with the Director.

Certificate

16. The Director shall, upon payment of the prescribed fee, issue a certificate certifying,

- (a) as to the endorsement or non-endorsement of a licence for any corporation;
- (b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act; or
- (c) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as an officer or agent for service of the corporation named in the certificate.

Delegation
by Director

17.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

Signing

(2) Where this Act requires or authorizes the Director to endorse a licence or to certify any fact, the licence or certificate shall be signed by the Director or any other person designated for the purpose by the regulations.

Evidence

(3) A licence or certificate referred to in subsection (2) or a certified copy thereof when introduced as evidence in any civil, criminal or administrative action or proceeding is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.

Reproducing
signature

(4) For the purposes of subsections (2) and (3), any signature authorized under this section may be printed or otherwise mechanically reproduced.

18.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. Verification by affidavit

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. Evidence under oath

19.—(1) Every extra-provincial corporation within class 3 that carries on its business in Ontario shall ensure the continuing appointment, at all times, of an individual, of the age of eighteen years or older, who is resident in Ontario or a corporation having its head office or registered office in Ontario as its agent for service in Ontario on whom service of process, notices or other proceedings may be made and service on the agent shall be deemed to be service on the corporation. Agent for service

(2) The appointment shall be in the prescribed form and shall accompany the application for a licence. Appointment form

(3) Where the name, address or any other particular set out in the appointment of an agent changes or where an agent is substituted, the extra-provincial corporation shall forthwith file a revised appointment in the prescribed form with the Director. Revised appointment

(4) Any matter sent by the Director by prepaid post, Service by Director

(a) to an agent referred to in subsection (1) addressed to him at the latest address shown on the records of the Director; or

(b) to the head or registered office of the extra-provincial corporation at the latest address shown on the records of the Director,

shall be deemed to have been served on the extra-provincial corporation on the fifth business day after the day of mailing.

20.—(1) Every person who, without reasonable cause, Penalty

(a) contravenes this Act or the regulations;

(b) contravenes a condition of a licence; or

(c) fails to observe or comply with an order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$25,000.

Idem

(2) Where an extra-provincial corporation is guilty of an offence under subsection (1), every director or officer of the corporation and every person acting as its representative in Ontario who authorized, permitted or acquiesced to such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Ability to maintain action

21.—(1) An extra-provincial corporation within class 3 that is not in compliance with section 19 or has not obtained a licence when required by this Act, is not capable of maintaining any action or any other proceeding in any court or tribunal in Ontario in respect of any contract made by it.

Correcting default

(2) Where a default referred to in subsection (1) has been corrected, an action or other proceeding may be maintained as if the default had been corrected before the institution of the action or other proceeding.

Power to hold land

22. Every corporation,

- (a) within class 1 or 2;
- (b) within class 3 that has a licence under this Act; or
- (c) that is exempt from the licensing requirement under this Act,

has power to acquire, hold and convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking.

Effect of licence under R.S.O. 1980, c. 95

23.—(1) Where a licence has been issued to an extra-provincial corporation within class 3 under Part VIII of the *Corporations Act* or a predecessor thereof,

- (a) the licence remains in effect and shall be deemed to have been endorsed under this Act;
- (b) the powers of the extra-provincial corporation shall be deemed to be restricted as set out in the existing licence; and
- (c) the attorney for service previously appointed continues in office and the provisions of this Act with respect to agents for service apply.

(2) All extra-provincial licences issued under Part VIII of the *Corporations Act* or a predecessor thereof except licences referred to in subsection (1) are cancelled on the day this section comes into force.

Licences cancelled
R.S.O. 1980,
c. 95

24.—(1) In any other Act, unless the context otherwise requires,

References in
other Acts

(a) a reference to an extra-provincial corporation is deemed to be a reference to an extra-provincial corporation under this Act; and

(b) a reference to an extra-provincial corporation that is licensed or required to be licensed under Part VIII of the *Corporations Act* means an extra-provincial corporation within class 1 or 3.

(2) Where a corporation within class 1 or 2 would enjoy an exemption or a benefit under another Act if it had an extra-provincial licence, the corporation shall be deemed to have a licence for the purpose of the other Act.

Where
corporation
deemed to
have licence

25. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act, including, without limiting the generality of the foregoing, regulations,

Regulations

- (a) requiring the payment of fees for any matter that the Director is required or authorized to do under this Act and prescribing the amounts thereof;
- (b) prescribing forms for use under this Act and providing for their use;
- (c) designating officers of the Ministry for the purposes of endorsing licences and issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (d) respecting names of extra-provincial corporations or classes thereof;
- (e) prohibiting the use of any words or expressions in a corporate name;
- (f) defining any word or expression used in clause 10 (1) (b);
- (g) prescribing requirements for the purposes of clause 10 (1) (c);

- (h) prescribing conditions for the purposes of subsection 10 (2);
- (i) prescribing the documents relating to names to be filed with the Director under subsection 10 (3);
- (j) respecting the evidence required upon the application for a licence under this Act including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (k) respecting the appointment and continuance by extra-provincial corporations of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such agent;
- (l) prescribing the conditions and limitations that may be specified in licences;
- (m) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon such terms and conditions, if any, as may be prescribed;
- (n) prescribing any matter required by this Act to be prescribed.

Revocation

26. Part VIII of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

27. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

28. The short title of this Act is the *Extra-Provincial Corporations Act, 1984*.

Bill 5

*(Chapter 14
Statutes of Ontario, 1984)*

An Act in respect of Extra-Provincial Corporations

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 17th, 1984
<i>3rd Reading</i>	May 25th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 5**1984****An Act in respect of Extra-Provincial Corporations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “business” includes undertaking and non-profit activities;
- (b) “court” means the High Court of Justice;
- (c) “Director” means the Director appointed under section 3;
- (d) “endorse” includes imprinting a stamp, in accordance with section 5, on the face of an application sent to the Director;
- (e) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislative Assembly;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (g) “Ministry” means the Ministry of the Minister;
- (h) “prescribed” means prescribed by the regulations;
- (i) “send” includes deliver or mail;
- (j) “regulations” means the regulations made under this Act.

(2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,

Carrying on
business in
Ontario

- (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
- (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
- (c) it otherwise carries on its business in Ontario.

Idem

(3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,

- (a) it takes orders for or buys or sells goods, wares and merchandise; or
- (b) offers or sells services of any type,

by use of travellers or through advertising or correspondence.

Classes of
extra-
provincial
corporations

2.—(1) Extra-provincial corporations shall be classified into the following classes:

Class 1. Corporations incorporated or continued by or under the authority of an Act of a legislature of a province of Canada.

Class 2. Corporations incorporated or continued by or under the authority of an Act of the Parliament of Canada including corporations incorporated under an ordinance of the Yukon or Northwest Territories.

Class 3. Corporations incorporated or continued under the laws of a jurisdiction outside of Canada.

Idem

(2) Corporations incorporated under an ordinance of the Northwest Territories but governed by the corporation laws of a province are corporations within class 1.

Director

3. There shall be a Director appointed by the Minister who shall perform such duties and have such powers as are assigned to him by this Act.

Where
licence
not required
R.S.O. 1980,
c. 96

4.—(1) Subject to this Act, the *Corporations Information Act* and any other Act, an extra-provincial corporation within class 1 or 2 may carry on any of its business in Ontario without obtaining a licence under this Act.

Carrying on
business
without
licence
prohibited

(2) No extra-provincial corporation within class 3 shall carry on any of its business in Ontario without a licence under

this Act to do so, and no person acting as representative for or agent for any such extra-provincial corporation shall carry on any of its business in Ontario unless the corporation has a licence under this Act.

5.—(1) An extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending to the Director two originals of the application signed by a director or officer of the corporation, all other required documents and the prescribed fee.

Application for licence, etc.

(2) Where the Director receives an application in accordance with subsection (1) he may endorse on each original a licence, amended licence or a termination of the licence, setting out the day, month and year of endorsement and a corporation number and, where he so endorses, he shall,

Where Director endorses

- (a) file one original of the application with the endorsement;
- (b) send to the corporation or its representative one original of the application with the endorsement thereon; and
- (c) publish notice of the endorsement in *The Ontario Gazette*.

(3) An endorsement under subsection (2) may be dated as of the date the Director receives the originals of any application together with all other required documents executed in accordance with this Act and the prescribed fees or as of any later date acceptable to the Director specified by the person who submitted the application.

Date of endorsement

(4) An endorsement under subsection (2) is effective on the date shown thereon notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing by him is taken at a later date.

When endorsement effective

(5) The Director may make a licence or an amended licence subject to restrictions on the business of a corporation and to such other limitations or conditions as are specified in the licence or amended licence.

Restrictions on licence

6.—(1) Where the Director refuses to endorse any application required by this Act to be endorsed by him before it becomes effective, he shall give written notice to the person who delivered the application of his refusal, specifying the reasons therefor.

Where endorsement refused

Idem (2) Where, within six months after an application referred to in subsection 5 (1) has been sent to the Director, the Director has not endorsed the application, he shall be deemed for the purposes of section 8 to have refused to endorse it.

Director may cancel licence 7.—(1) Where sufficient cause is shown, the Director, after giving an extra-provincial corporation within class 3 an opportunity to be heard, may by order cancel the licence of the corporation upon such date as is fixed in the order.

Review by Director (2) If no proceedings have been taken under section 8, the Director may at any time review an order made under subsection (1) and may affirm, revoke or vary any such order if in his opinion it is appropriate to do so.

Interpretation (3) In this section, “sufficient cause” includes,

- (a) failure to pay any prescribed fee;
- (b) failure to comply with section 19;
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; and
- (d) a conviction of the extra-provincial corporation for an offence under the *Criminal Code (Canada)* or an offence as defined in the *Provincial Offences Act* in circumstances where cancellation of the licence is in the public interest.

R.S.O. 1980,
c. 96

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

Appeal 8.—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse an application;
- (b) to make or refuse to make an order under section 11;
- (c) to cancel a licence under section 7 or subsection 12 (2);
- (d) to require that a corrected licence be endorsed under section 18; or
- (e) to impose conditions on a licence or amended licence,

may appeal to the Divisional Court.

(2) The Director shall certify to the registrar of the Divisional Court, Certification
by Director

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) other material that is relevant to the appeal.

(3) The Director is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section. Director may
be heard

(4) Where an appeal is taken under this section, the court may direct the Director to make such decision or do such other act that the Director is empowered to do under this Act, as the court thinks proper, having regard to the material and submissions before it. Court order

(5) Notwithstanding an order of the court under subsection (4), the Director has power to make any further decision where he is presented with new material or where there is a material change in the circumstances and every such decision is subject to this section. Further
orders by
Director

9. An extra-provincial corporation may, subject to its incorporating instrument, the *Corporations Information Act* and any other Act, use and identify itself in Ontario by a name other than its corporate name and, in the case of an extra-provincial corporation within class 3, may be licensed to use such name. Use of other
name
R.S.O. 1980,
c. 96

10.—(1) Notwithstanding section 9 and subject to subsection (2), an extra-provincial corporation within class 1 or 3 shall not use or identify itself in Ontario by a name, Where name,
etc., likely
to deceive

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is used, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on its business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that does not meet the requirements prescribed by the regulations.

Exception

(2) An extra-provincial corporation within class 1 or 3 may use or identify itself in Ontario by a name described in clause (1) (b) upon compliance with such conditions as may be prescribed.

Filing material

(3) An extra-provincial corporation to which this section applies shall file with the Director such documents relating to the name or proposed name as may be prescribed.

Where contravention

11.—(1) If an extra-provincial corporation within class 1 or 3, through inadvertence or otherwise, uses or identifies itself by a name contrary to section 10, the Director may, after giving the extra-provincial corporation an opportunity to be heard, order it to cease using the name in Ontario and, where the name is contained in a licence, the Director may order that the corporation apply for an amended licence under a different name within the time specified in the order.

Director may apply for order under s. 14

(2) Where an extra-provincial corporation within class 1 fails to comply with an order made under subsection (1), the Director may apply to the Court for an order under section 14.

Director may cancel licence

(3) Where an extra-provincial corporation within class 3 fails to apply for an amended licence pursuant to an order under subsection (1), the Director may cancel the licence.

Where change of name or jurisdiction

12.—(1) An extra-provincial corporation within class 3 shall make application for an amended licence where,

- (a) it has changed its name or has been ordered to change its name under section 11; or
- (b) it has continued under the laws of another jurisdiction.

(2) Where an extra-provincial corporation within class 3 has not carried on any of its business in Ontario for any two consecutive years, the extra-provincial corporation shall make application for termination of its licence or, if it does not do so, the Director, upon giving the corporation an opportunity to be heard, may by order cancel the licence.

Where corporation ceases to carry on business

13.—(1) Where a licence contains an error,

Endorsement in error

- (a) the corporation shall, upon the request of the Director and after being given an opportunity to be heard, return the licence; or
- (b) the corporation may apply to the Director for a corrected licence and upon such resolutions being passed and other steps taken as the Director may require,

the Director may endorse a corrected licence.

(2) A corrected licence endorsed under subsection (1) may bear the date of the licence it replaces.

Date on corrected licence

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette*.

Notice of correction

14.—(1) The Director may apply to the court for an order prohibiting an extra-provincial corporation within class 1 from carrying on its business in Ontario or such other order as he may think fit and, where sufficient cause exists, the court may make an order under subsection (2).

Court order

(2) Upon an application under this section the court may make any interim or final order it thinks fit.

Idem

(3) In subsection (1), “sufficient cause” includes,

Interpretation

- (a) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*;

R.S.O. 1980, c. 96

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

(b) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where an order of prohibition is in the public interest; and

(c) failure to comply with an order made under section 11.

Notice not
deemed

15. No person is affected by or is deemed to have knowledge of the contents of a document concerning an extra-provincial corporation by reason only that the document has been filed with the Director.

Certificate

16. The Director shall, upon payment of the prescribed fee, issue a certificate certifying,

(a) as to the endorsement or non-endorsement of a licence for any corporation;

(b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act; or

(c) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as an officer or agent for service of the corporation named in the certificate.

Delegation
by Director

17.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

Signing

(2) Where this Act requires or authorizes the Director to endorse a licence or to certify any fact, the licence or certificate shall be signed by the Director or any other person designated for the purpose by the regulations.

Evidence

(3) A licence or certificate referred to in subsection (2) or a certified copy thereof when introduced as evidence in any civil, criminal or administrative action or proceeding is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.

Reproducing
signature

(4) For the purposes of subsections (2) and (3), any signature authorized under this section may be printed or otherwise mechanically reproduced.

18.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. Verification by affidavit

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. Evidence under oath

19.—(1) Every extra-provincial corporation within class 3 that carries on its business in Ontario shall ensure the continuing appointment, at all times, of an individual, of the age of eighteen years or older, who is resident in Ontario or a corporation having its head office or registered office in Ontario as its agent for service in Ontario on whom service of process, notices or other proceedings may be made and service on the agent shall be deemed to be service on the corporation. Agent for service

(2) The appointment shall be in the prescribed form and shall accompany the application for a licence. Appointment form

(3) Where the name, address or any other particular set out in the appointment of an agent changes or where an agent is substituted, the extra-provincial corporation shall forthwith file a revised appointment in the prescribed form with the Director. Revised appointment

(4) Any matter sent by the Director by prepaid post, Service by Director

(a) to an agent referred to in subsection (1) addressed to him at the latest address shown on the records of the Director; or

(b) to the head or registered office of the extra-provincial corporation at the latest address shown on the records of the Director,

shall be deemed to have been served on the extra-provincial corporation on the fifth business day after the day of mailing.

20.—(1) Every person who, without reasonable cause, Penalty

(a) contravenes this Act or the regulations;

(b) contravenes a condition of a licence; or

(c) fails to observe or comply with an order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$25,000.

Idem

(2) Where an extra-provincial corporation is guilty of an offence under subsection (1), every director or officer of the corporation and every person acting as its representative in Ontario who authorized, permitted or acquiesced to such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Ability to maintain action

21.—(1) An extra-provincial corporation within class 3 that is not in compliance with section 19 or has not obtained a licence when required by this Act, is not capable of maintaining any action or any other proceeding in any court or tribunal in Ontario in respect of any contract made by it.

Correcting default

(2) Where a default referred to in subsection (1) has been corrected, an action or other proceeding may be maintained as if the default had been corrected before the institution of the action or other proceeding.

Power to hold land

22. Every corporation,

- (a) within class 1 or 2;
- (b) within class 3 that has a licence under this Act; or
- (c) that is exempt from the licensing requirement under this Act,

has power to acquire, hold and convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking.

Effect of licence under R.S.O. 1980, c. 95

23.—(1) Where a licence has been issued to an extra-provincial corporation within class 3 under Part VIII of the *Corporations Act* or a predecessor thereof,

- (a) the licence remains in effect and shall be deemed to have been endorsed under this Act;
- (b) the powers of the extra-provincial corporation shall be deemed to be restricted as set out in the existing licence; and
- (c) the attorney for service previously appointed continues in office and the provisions of this Act with respect to agents for service apply.

(2) All extra-provincial licences issued under Part VIII of the *Corporations Act* or a predecessor thereof except licences referred to in subsection (1) are cancelled on the day this section comes into force.

Licences cancelled
R.S.O. 1980,
c. 95

24.—(1) In any other Act, unless the context otherwise requires,

References in
other Acts

- (a) a reference to an extra-provincial corporation is deemed to be a reference to an extra-provincial corporation under this Act; and
- (b) a reference to an extra-provincial corporation that is licensed or required to be licensed under Part VIII of the *Corporations Act* means an extra-provincial corporation within class 1 or 3.

(2) Where a corporation within class 1 or 2 would enjoy an exemption or a benefit under another Act if it had an extra-provincial licence, the corporation shall be deemed to have a licence for the purpose of the other Act.

Where
corporation
deemed to
have licence

25. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act, including, without limiting the generality of the foregoing, regulations,

Regulations

- (a) requiring the payment of fees for any matter that the Director is required or authorized to do under this Act and prescribing the amounts thereof;
- (b) prescribing forms for use under this Act and providing for their use;
- (c) designating officers of the Ministry for the purposes of endorsing licences and issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (d) respecting names of extra-provincial corporations or classes thereof;
- (e) prohibiting the use of any words or expressions in a corporate name;
- (f) defining any word or expression used in clause 10 (1) (b);
- (g) prescribing requirements for the purposes of clause 10 (1) (c);

- (h) prescribing conditions for the purposes of subsection 10 (2);
- (i) prescribing the documents relating to names to be filed with the Director under subsection 10 (3);
- (j) respecting the evidence required upon the application for a licence under this Act including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (k) respecting the appointment and continuance by extra-provincial corporations of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such agent;
- (l) prescribing the conditions and limitations that may be specified in licences;
- (m) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon such terms and conditions, if any, as may be prescribed;
- (n) prescribing any matter required by this Act to be prescribed.

Revocation

26. Part VIII of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

27. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

28. The short title of this Act is the *Extra-Provincial Corporations Act, 1984*.

Bill 6

An Act to amend the Corporations Information Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The definition of extra-provincial corporation is amended to correspond to the definition in the proposed *Extra-Provincial Corporations Act, 1984*.

SECTION 2.—Subsection 1. Complementary to subsection 3 (1) of the Bill.

Subsection 2. The Act currently prohibits a corporation from carrying on business under a style that contains “Limited”. The *Limited Partnerships Act* permits the use of “Limited Partnership”. The new provision would bring the Act in line with the *Limited Partnerships Act*.

SECTION 3.—Subsection 1. The amendment recognizes the use of “registered office” in place of “head office” in many jurisdictions.

Subsection 2. This is a housekeeping amendment to correct an omission to an internal reference during the revision.

SECTION 4. The list of information to be filed by an extra-provincial corporation is expanded.

Bill 6**1984****An Act to amend the Corporations Information Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (c) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (c) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislature.

2.—(1) Clause 2 (2) (e) of the said Act is amended by inserting after “head” in the first line “or registered”.

(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 1, is further amended by adding thereto the following subsection:

(3a) Subsection (3) does not apply to prohibit the use of the expression “Limited Partnership” in the name or style registered by a corporate partner in a limited partnership. “Limited Partnership” permitted

3.—(1) Clause 3 (1) (f) of the said Act is amended by inserting after “head” in the first line and in the second line “or registered”.

(2) Subsection 3 (3) of the said Act is amended by striking out “section 4” in the fifth line and inserting in lieu thereof “clauses 1 (a) to (f) or section 4, whichever is applicable”.

4. Section 4 of the said Act is repealed and the following substituted therefor:

4. An extra-provincial corporation shall file the following information: Information to be filed

1. The name of the corporation.

2. The date and manner of its incorporation or amalgamation.
3. The name of the jurisdiction under which the corporation was incorporated, amalgamated or continued.
4. The address of the head or registered office of the corporation.
5. The date on which the corporation commenced activities in Ontario.
6. The name and office address of its chief officer or manager in Ontario.
7. The address of its principal office in Ontario.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Corporations Information Amendment Act, 1984*.

Bill 6

An Act to amend the Corporations Information Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 22nd, 1984

2nd Reading April 24th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The definition of extra-provincial corporation is amended to correspond to the definition in the proposed *Extra-Provincial Corporations Act, 1984*.

SECTION 2.—Subsection 1. Complementary to subsection 3 (1) of the Bill.

Subsection 2. The Act currently prohibits a corporation from carrying on business under a style that contains "Limited". The *Limited Partnerships Act* permits the use of "Limited Partnership". The new provision would bring the Act in line with the *Limited Partnerships Act*.

SECTION 3.—Subsection 1. The amendment recognizes the use of "registered office" in place of "head office" in many jurisdictions.

Subsection 2. This is a housekeeping amendment to correct an omission to an internal reference during the revision.

SECTION 4. The list of information to be filed by an extra-provincial corporation is expanded.

Bill 6

1984

An Act to amend the Corporations Information Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (c) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (c) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislature.

2.—(1) Clause 2 (2) (e) of the said Act is amended by inserting after “head” in the first line “or registered”.

(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 1, is further amended by adding thereto the following subsection:

(3a) Subsection (3) does not apply to prohibit the use of the expression “Limited Partnership” in the name or style registered by a corporate partner in a limited partnership. “Limited Partnership” permitted

3.—(1) Clause 3 (1) (f) of the said Act is amended by inserting after “head” in the first line and in the second line “or registered”.

(2) Subsection 3 (3) of the said Act is amended by striking out “section 4” in the fifth line and inserting in lieu thereof “clauses 1 (a) to (f) or section 4, whichever is applicable”.

4. Section 4 of the said Act is repealed and the following substituted therefor:

4. An extra-provincial corporation shall file the following information: Information to be filed

1. The name of the corporation.

2. The date and manner of its incorporation or amalgamation.
3. The name of the jurisdiction under which the corporation was incorporated, amalgamated or continued.
4. The address of the head or registered office of the corporation.
5. The date on which the corporation commenced activities in Ontario.
6. The name and office address of its chief officer or manager in Ontario.
7. The address of its principal office in Ontario.
8. The name and office address of its agent for service in Ontario.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Corporations Information Amendment Act, 1984*.

Bill 6

*(Chapter 3
Statutes of Ontario, 1984)*

An Act to amend the Corporations Information Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 6**1984****An Act to amend the Corporations Information Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (c) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (c) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislature.

2.—(1) Clause 2 (2) (e) of the said Act is amended by inserting after “head” in the first line “or registered”.

(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 1, is further amended by adding thereto the following subsection:

(3a) Subsection (3) does not apply to prohibit the use of the expression “Limited Partnership” in the name or style registered by a corporate partner in a limited partnership. “Limited Partnership” permitted

3.—(1) Clause 3 (1) (f) of the said Act is amended by inserting after “head” in the first line and in the second line “or registered”.

(2) Subsection 3 (3) of the said Act is amended by striking out “section 4” in the fifth line and inserting in lieu thereof “clauses 1 (a) to (f) or section 4, whichever is applicable”.

4. Section 4 of the said Act is repealed and the following substituted therefor:

4. An extra-provincial corporation shall file the following information: Information to be filed

1. The name of the corporation.

2. The date and manner of its incorporation or amalgamation.
3. The name of the jurisdiction under which the corporation was incorporated, amalgamated or continued.
4. The address of the head or registered office of the corporation.
5. The date on which the corporation commenced activities in Ontario.
6. The name and office address of its chief officer or manager in Ontario.
7. The address of its principal office in Ontario.
8. The name and office address of its agent for service in Ontario.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Corporations Information Amendment Act, 1984*.

Bill 7

An Act to amend the Family Law Reform Act

Mr. Wrye

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to ensure that all property owned by one or both spouses is considered a family asset, to be divided equally on divorce or permanent separation unless the spouses have made a domestic contract providing for a different result. This would apply to pensions, investments and business and professional assets as well as to the matrimonial home and other assets hitherto considered family assets. The court's discretion to divide family assets unequally is limited to cases in which equal division would be inequitable having regard to the duration of the marriage or the extent to which property was acquired after the spouses separated.

Bill 7

1984

An Act to amend the Family Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 3 (b) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) “family assets” means all property owned by a spouse or both spouses, whether acquired before or after the spouses entered into the marriage, and includes,
- (i) property over which a spouse has, either alone or in conjunction with another person, a power of appointment exercisable in favour of himself or herself, and
 - (ii) property disposed of by a spouse but over which the spouse has, either alone or in conjunction with another person, a power to revoke the disposition or a power to consume, invoke or dispose of the property,

but does not include property that the spouses, in a domestic contract, have agreed to exclude from the family assets.

2.—(1) Subsections 4 (4) and (5) of the said Act are repealed and the following substituted therefor:

(4) The court may make a division of family assets resulting in shares that are not equal where the court is of the opinion that a division of the family assets in equal shares would be inequitable, having regard to,

Variation of
division

- (a) the duration of the period of cohabitation under the marriage; or

- (b) the extent to which property was acquired by one spouse after the spouses separated.

Purpose

(5) The purpose of this section is to recognize that child care, household management and financial provision are the joint responsibilities of the spouses and that inherent in the marital relationship there is joint contribution, whether financial or otherwise, by the spouses to the assumption of these responsibilities, entitling each spouse to an equal division of the family assets, subject to the equitable considerations set out in subsection (4).

(2) Subsection 4 (6) of the said Act is repealed.

3. Section 8 of the said Act is repealed.

4. Section 9 of the said Act is amended by striking out “4, 7 or 8” in the first line and inserting in lieu thereof “4 or 7”.

5. Section 12 of the said Act is repealed and the following substituted therefor:

Application
of Part

12. This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before the 1st day of June, 1984;
- (b) the property in issue was acquired before that day;
or
- (c) a proceeding to determine the rights as between the spouses in respect of property has been commenced or adjudicated before that day.

Commence-
ment

6. This Act comes into force on the 1st day of June, 1984.

Short title

7. The short title of this Act is the *Family Law Reform Amendment Act, 1984*.

Bill 8

An Act to amend the Liquor Control Act

Mr. Boudria

1st Reading March 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would allow the Liquor Control Board to permit small independent grocers to sell Ontario wine.

Bill 8**1984****An Act to amend the Liquor Control Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (f) “small grocery store” means a store that sells groceries by retail and in which the total area used for serving the public or selling or displaying all goods to the public is not more than 1,000 square metres;
- (g) “small independent grocer” means a business that is under the ownership of a person or persons, other than a corporation that offers its shares to the public, and that sells groceries by retail at not more than four small grocery stores in separate locations.

2. Section 3 of the said Act is amended by adding thereto the following clause:

- (ea) to issue permits to small independent grocers to sell Ontario wine by retail in small grocery stores, and to authorize the sale of Ontario wine to small independent grocers and fix the wholesale and retail prices for the purpose.

3. Section 8 of the said Act is amended by adding thereto the following clause:

- (h) requiring small grocers who sell Ontario wine to have on hand for sale groceries of a specified monetary value at all times, and specifying the monetary value.

4. This Act comes into force on the day it receives Royal Assent. Commencement

Short title

5. The short title of this Act is the *Liquor Control Amendment Act, 1984*.

Bill 9

An Act to amend the Liquor Control Act

Mr. Boudria

1st Reading March 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would allow the Liquor Control Board to permit small independent grocers to sell beer.

Bill 9**1984****An Act to amend the Liquor Control Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (f) “small grocery store” means a store that sells groceries by retail and in which the total area used for serving the public or selling or displaying all goods to the public is not more than 1,000 square metres;
- (g) “small independent grocer” means a business that is under the ownership of a person or persons, other than a corporation that offers its shares to the public, and that sells groceries by retail at not more than four small grocery stores in separate locations.

2. Section 3 of the said Act is amended by adding thereto the following clause:

- (ea) to issue permits to small independent grocers to sell beer by retail in small grocery stores, and to authorize the sale of beer to small independent grocers and fix the wholesale and retail prices for the purpose.

3. Section 8 of the said Act is amended by adding thereto the following clause:

- (h) requiring small grocers who sell beer to have on hand for sale groceries of a specified monetary value at all times, and specifying the monetary value.

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

5. The short title of this Act is the *Liquor Control Amendment Act, 1984*.

Bill 10

An Act to amend the Human Tissue Gift Act

Mr. Van Horne

1st Reading March 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to facilitate the obtaining of human organs for transplant purposes by creating an automated register of the names of all persons entitled to insured services under the *Health Insurance Act*, indicating whether each person has filed a general or specific consent to *post mortem* organ donation, has filed an objection to the procedure or has done neither. Provision is made for the amendment of the register and for keeping it confidential.

Bill 10

1984

An Act to amend the Human Tissue Gift Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Human Tissue Gift Act*, being chapter 210 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Subsection (1) does not apply where the register referred to in subsection 8a(2) contains a record of an objection, by the person who died or whose death is imminent, to the use after death of the person's body, or of the part or parts of the body in respect of which a consent is sought, for therapeutic purposes, medical education or scientific research.

Where
objection
recorded

2. Part II of the said Act is amended by adding thereto the following section:

8a.—(1) In this section,

Interpretation

- (a) "consent" means a consent given under clause 4 (1) (a);
- (b) "objection" means a person's written statement indicating that the person objects to the use after death of the person's body, or of a part or parts of the body, for therapeutic purposes, medical education or scientific research.

(2) The Minister of Health shall maintain a register containing,

Register
of consents
and
objections

- (a) the names and health insurance numbers of all insured persons as defined in the *Health Insurance Act*; and
- (b) records of consents and objections of insured persons filed with the Ministry of Health.

R.S.O. 1980,
c. 197

Nature and amendment of register

(3) A record of a consent or objection contained in the register,

- (a) shall be stored electronically or on a magnetic medium so as to be capable of being retrieved by reference to the name and health insurance number of the person who gave the consent or made the objection;
- (b) shall be amended or deleted where the person who gave the consent or made the objection so requests; and
- (c) may be deleted where the Minister of Health is satisfied that the person who gave the consent or made the objection has died.

Access to register

(4) No person shall have access to a record of a consent or objection except,

- (a) the person who gave the consent or made the objection, and his or her personal representative;
- (b) a physician who *bona fide* requires the information in connection with a proposed transplant, or a person acting on the physician's behalf; and
- (c) an employee of the Minister of Health whose duties require access to the record.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Human Tissue Gift Amendment Act, 1984*.

Bill 11

An Act to amend the Liquor Licence Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The definition of Ontario wine is expanded to include apple cider. The new definition of Tribunal is complementary to sections 3 and 4 of the Bill.

SECTION 2. An application for a liquor licence may be refused after a public hearing concerning the application is held. The new provision bars the applicant from reapplying within two years unless there has been a significant change in circumstances.

SECTIONS 3 and 4. The Liquor Licence Appeal Tribunal is being discontinued and its powers are being transferred to The Commercial Registration Appeal Tribunal.

SECTION 5. The provision is re-enacted to resolve a conflict with the *Ministry of Consumer and Commercial Relations Act*.

SECTION 6. This is a relocation of subsection 15 (10) of the Act which is repealed by section 2 of the Bill.

SECTION 7. The new clause is an addition to the section authorizing the making of regulations.

SECTION 8. Subsection 44 (8) of the Act protects a vendor who sells liquor on the basis of a card issued to prove age. This is being expanded to include the potential use of other documentation that indicates the age of the holder.

SECTION 9. Ontario Regulation 805/81 was filed on November 30th, 1981 and thus came into force on that day. Its effect was to reduce sales tax on wine sold in a winery's own retail outlet from 10 per cent to 5 per cent.

Bill 11**1984****An Act to amend the Liquor Licence Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (j) and (o) of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (j) "Ontario wine" means,
- (i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof and includes Ontario wine to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario,
 - (ii) wine produced by the alcoholic fermentation of Ontario honey, with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine, or
 - (iii) wine produced from a combination of,
 - (A) apples grown in Ontario or the concentrated juice thereof to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario, and
 - (B) the concentrated juice of apples grown outside of Ontario,
- in such proportion as is prescribed by regulation;
-

R.S.O. 1980,
c. 274

- (o) "Tribunal" means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*.

2. Section 6 of the said Act is amended by adding thereto the following subsections:

Limit on
hearings

(5) Where the issuance of a licence is refused on the grounds set out in clause (1) (g), no further application may be made for a licence for the same premises within two years after the completion of the public hearing.

Exception

(6) Where the Board is satisfied that there has been significant change in the circumstances that pertained at the time of the application that led to the hearing under subsection (3), it may permit a re-application within the two-year period referred to in subsection (5).

3. Section 13 of the said Act is repealed.

4. Section 15 of the said Act is repealed.

5. Section 17 of the said Act is repealed and the following substituted therefor:

Decision of
Tribunal
final
R.S.O. 1980,
c. 274

17. Notwithstanding subsection 11 (1) of the *Ministry of Consumer and Commercial Relations Act*, the decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final.

6. Subsection 18 (3) of the said Act is repealed and the following substituted therefor:

Powers of
court
on appeal;
R.S.O. 1980,
c. 274

(3) Notwithstanding subsection 11 (5) of the *Ministry of Consumer and Commercial Relations Act*, an appeal under this section may be made on questions of law only.

When order
takes
effect

(4) An order of the Tribunal revoking or suspending a licence or a permit takes effect upon the order being made but, where an appeal is made to the Divisional Court, the court may grant a stay until the disposition of the appeal.

7. Section 39 of the said Act is amended by adding thereto the following clause:

(za) regulating and controlling the possession of liquor sold under any class of licence or permit.

8. Subsection 44 (8) of the said Act is repealed and the following substituted therefor:

(8) A person who sells or supplies liquor to another person on the basis of,

Vendor may
rely on
documen-
tation

- (a) a card in the form prescribed by the regulations purporting to be issued by the Board to the person producing it; or
- (b) such other documentation as is prescribed by the regulations indicating or disclosing information prescribed by the regulations,

where there is no apparent reason to doubt,

- (c) the authenticity of the card or other documentation; or
- (d) that it was issued to the person producing it,

is not in contravention of subsection (1) or (2).

9. Ontario Regulation 805/81 shall be deemed to have come into force on the 13th day of October, 1981.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

11. The short title of this Act is the *Liquor Licence Amendment Act, 1984*.

Short title

Bill 11

*(Chapter 4
Statutes of Ontario, 1984)*

An Act to amend the Liquor Licence Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	March 26th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 11

1984

An Act to amend the Liquor Licence Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (j) and (o) of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (j) "Ontario wine" means,
- (i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof and includes Ontario wine to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario,
 - (ii) wine produced by the alcoholic fermentation of Ontario honey, with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine, or
 - (iii) wine produced from a combination of,
 - (A) apples grown in Ontario or the concentrated juice thereof to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario, and
 - (B) the concentrated juice of apples grown outside of Ontario,
 in such proportion as is prescribed by regulation;

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R.S.O. 1980,
c. 274

- (o) "Tribunal" means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*.

2. Section 6 of the said Act is amended by adding thereto the following subsections:

Limit on
hearings

(5) Where the issuance of a licence is refused on the grounds set out in clause (1) (g), no further application may be made for a licence for the same premises within two years after the completion of the public hearing.

Exception

(6) Where the Board is satisfied that there has been significant change in the circumstances that pertained at the time of the application that led to the hearing under subsection (3), it may permit a re-application within the two-year period referred to in subsection (5).

3. Section 13 of the said Act is repealed.

4. Section 15 of the said Act is repealed.

5. Section 17 of the said Act is repealed and the following substituted therefor:

Decision of
Tribunal
final
R.S.O. 1980,
c. 274

17. Notwithstanding subsection 11 (1) of the *Ministry of Consumer and Commercial Relations Act*, the decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final.

6. Subsection 18 (3) of the said Act is repealed and the following substituted therefor:

Powers of
court
on appeal
R.S.O. 1980,
c. 274

(3) Notwithstanding subsection 11 (5) of the *Ministry of Consumer and Commercial Relations Act*, an appeal under this section may be made on questions of law only.

When order
takes
effect

(4) An order of the Tribunal revoking or suspending a licence or a permit takes effect upon the order being made but, where an appeal is made to the Divisional Court, the court may grant a stay until the disposition of the appeal.

7. Section 39 of the said Act is amended by adding thereto the following clause:

(za) regulating and controlling the possession of liquor sold under any class of licence or permit.

8. Subsection 44 (8) of the said Act is repealed and the following substituted therefor:

(8) A person who sells or supplies liquor to another person on the basis of,

Vendor may
rely on
documen-
tation

- (a) a card in the form prescribed by the regulations purporting to be issued by the Board to the person producing it; or
- (b) such other documentation as is prescribed by the regulations indicating or disclosing information prescribed by the regulations,

where there is no apparent reason to doubt,

- (c) the authenticity of the card or other documentation; or
- (d) that it was issued to the person producing it,

is not in contravention of subsection (1) or (2).

9. Ontario Regulation 805/81 shall be deemed to have come into force on the 13th day of October, 1981.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

11. The short title of this Act is the *Liquor Licence Amendment Act, 1984*.

Short title

Bill 12

An Act to amend the Ministry of Consumer and Commercial Relations Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

1st Reading March 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Currently, membership on the Tribunal is limited to six. The provision, as recast, removes the limit and thereby allows for a greater number to be appointed.

Subsections 2 and 5. The Act currently provides for consultation with industries registered under any Act, this provision is being expanded to include industries licensed under any Act.

Subsections 3 and 4. The quorum for the Tribunal is three members. The new subsection 7 (6a) of the Act would enable the chairman to alter the quorum in specific circumstances. Subsection 7 (6), as recast, does away with the need for either the chairman or vice-chairman to be present to make up a quorum.

SECTION 2.—Subsection 1. The section of the Act is recast to permit members of the Tribunal to examine, prior to a hearing, filed material.

Subsection 2. The new provision enables a hearing to continue with a member whose term has expired or who is no longer engaged in the industry that he was appointed to represent.

SECTION 3. Self-explanatory.

Bill 12**1984**

**An Act to amend the
Ministry of Consumer and Commercial Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 7 (3) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) The Tribunal shall consist of not fewer than three members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members, who shall be a full-time member, as chairman and may appoint one or more of such members as vice-chairmen. Members

(2) Subsection 7 (4) of the said Act is amended by inserting after “registered” in the third line “or licensed”.

(3) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

(6) Subject to subsections (6a) and (7), three members of the Tribunal constitute a quorum and may exercise all the powers of the Tribunal notwithstanding any vacancy in the membership. Quorum

(4) Section 7 of the said Act is amended by adding thereto the following subsection:

(6a) Notwithstanding subsection (6), where the chairman, with the consent of the parties, so declares in writing, the quorum of the Tribunal in respect of any matter specified in the declaration shall be the number of members stated in the declaration and subsection (7) does not apply to a matter determined under this subsection. Idem

(5) Subsection 7 (8) of the said Act is amended by inserting after “registration” in the second line “licensing”.

2.—(1) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

Information
available
to members

(2) Members of the Tribunal holding a hearing shall not have taken part in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but, members may, independently of each other, examine prior to the hearing any material required to be filed with the Tribunal by the parties to the proceedings by any Act or any regulations made thereunder, and the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to law.

(2) Section 10 of the said Act is amended by adding thereto the following subsection:

Member to
complete
hearing

(6a) Where during a hearing before the Tribunal, a member of the Tribunal sitting for the hearing,

- (a) who was appointed under subsection (4), ceases to be engaged in the industry that he was appointed to represent; or
- (b) has his term of office expire,

before the hearing is completed, the member shall remain a member of the Tribunal for the purpose of completing the hearing in the same manner as if he had not ceased to be engaged in the industry or his term of office had not expired.

3. The said Act is amended by adding thereto the following sections:

Disclosure of
information

14.—(1) No provision in any Act shall be construed so as to prohibit an employee of the Ministry from disclosing any information that he acquires in the course of his employment,

- (a) to another employee of the Ministry where the information disclosed relates to the administration of an Act for which the Minister is responsible; or

- (b) to a peace officer where the employee has reason to believe that a criminal offence may have been committed.

(2) In this section, an employee of the Ministry includes an employee of any agency, board or commission for which the Minister is responsible. Interpretation

15. The Lieutenant Governor in Council may make regulations respecting the conduct of and governing the practice and procedure of Tribunal proceedings. Regulations

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

5. The short title of this Act is the *Ministry of Consumer and Commercial Relations Amendment Act, 1984*. Short title

Bill 12

*(Chapter 5
Statutes of Ontario, 1984)*

An Act to amend the Ministry of Consumer and Commercial Relations Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	March 26th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 12

1984

**An Act to amend the
Ministry of Consumer and Commercial Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 7 (3) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) The Tribunal shall consist of not fewer than three members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members, who shall be a full-time member, as chairman and may appoint one or more of such members as vice-chairmen. Members

(2) Subsection 7 (4) of the said Act is amended by inserting after “registered” in the third line “or licensed”.

(3) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

(6) Subject to subsections (6a) and (7), three members of the Tribunal constitute a quorum and may exercise all the powers of the Tribunal notwithstanding any vacancy in the membership. Quorum

(4) Section 7 of the said Act is amended by adding thereto the following subsection:

(6a) Notwithstanding subsection (6), where the chairman, with the consent of the parties, so declares in writing, the quorum of the Tribunal in respect of any matter specified in the declaration shall be the number of members stated in the declaration and subsection (7) does not apply to a matter determined under this subsection. Idem

(5) Subsection 7 (8) of the said Act is amended by inserting after "registration" in the second line "or licensing".

2.—(1) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

Information available to members

(2) Members of the Tribunal holding a hearing shall not have taken part in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but, members may, independently of each other, examine prior to the hearing any material required to be filed with the Tribunal by the parties to the proceedings by any Act or any regulations made thereunder, and the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to law.

(2) Section 10 of the said Act is amended by adding thereto the following subsection:

Member to complete hearing

(6a) Where during a hearing before the Tribunal, a member of the Tribunal sitting for the hearing,

- (a) who was appointed under subsection (4), ceases to be engaged in the industry that he was appointed to represent; or
- (b) has his term of office expire,

before the hearing is completed, the member shall remain a member of the Tribunal for the purpose of completing the hearing in the same manner as if he had not ceased to be engaged in the industry or his term of office had not expired.

3. The said Act is amended by adding thereto the following sections:

Disclosure of information

14.—(1) No provision in any Act shall be construed so as to prohibit an employee of the Ministry from disclosing any information that he acquires in the course of his employment,

- (a) to another employee of the Ministry where the information disclosed relates to the administration of an Act for which the Minister is responsible; or

- (b) to a peace officer where the employee has reason to believe that a criminal offence may have been committed.

(2) In this section, an employee of the Ministry includes an employee of any agency, board or commission for which the Minister is responsible. Interpretation

15. The Lieutenant Governor in Council may make regulations respecting the conduct of and governing the practice and procedure of Tribunal proceedings. Regulations

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

5. The short title of this Act is the *Ministry of Consumer and Commercial Relations Amendment Act, 1984*. Short title

Bill 13

An Act to amend the Ombudsman Act

The Hon. R. McMurtry
Attorney General

1st Reading March 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The amendment would permit an Ombudsman who is over 60 years of age when first appointed to continue in office long enough to qualify for an allowance under the *Legislative Assembly Retirement Allowances Act*.

Bill 13**1984****An Act to amend the Ombudsman Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Ombudsman Act*, being chapter 325 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4.—(1) Subject to subsection (2), the Ombudsman shall hold office for a term of ten years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. Term of office and removal

(2) The Ombudsman shall retire upon attaining the age of sixty-five years but, where he attains the age of sixty-five years before he has served five years in office, he shall retire upon serving five years in office. Retirement

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Ombudsman Amendment Act, 1984*. Short title

Bill 13

*(Chapter 6
Statutes of Ontario, 1984)*

An Act to amend the Ombudsman Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	March 27th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 13

1984

An Act to amend the Ombudsman Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Ombudsman Act*, being chapter 325 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4.—(1) Subject to subsection (2), the Ombudsman shall hold office for a term of ten years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. Term of office and removal

(2) The Ombudsman shall retire upon attaining the age of sixty-five years but, where he attains the age of sixty-five years before he has served five years in office, he shall retire upon serving five years in office. Retirement

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Ombudsman Amendment Act, 1984*. Short title

Bill 14

Arboreal Emblem Act, 1984

The Hon. A. W. Pope
Minister of Natural Resources

1st Reading March 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would adopt the Eastern White Pine as the arboreal emblem of Ontario.

Bill 14**1984****Arboreal Emblem Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The tree known botanically as *Pinus strobus* Linnaeus and popularly known as the Eastern White Pine is adopted as and shall be deemed to be the arboreal emblem of the Province of Ontario. Arboreal emblem of Ontario

- 2.** This Act comes into force on the day it receives Royal Assent. Commencement

- 3.** The short title of this Act is the *Arboreal Emblem Act, 1984*. Short title

Bill 14

*(Chapter 7
Statutes of Ontario, 1984)*

Arboreal Emblem Act, 1984

The Hon. A. W. Pope
Minister of Natural Resources

<i>1st Reading</i>	March 27th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 14**1984****Arboreal Emblem Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The tree known botanically as *Pinus strobus* Linnaeus and popularly known as the Eastern White Pine is adopted as and shall be deemed to be the arboreal emblem of the Province of Ontario. Arboreal emblem of Ontario
- 2.** This Act comes into force on the day it receives Royal Assent. Commencement
- 3.** The short title of this Act is the *Arboreal Emblem Act, 1984*. Short title

Bill 15

An Act to provide for Affirmative Action and Equal Pay for Work of Equal Value

Mr. Rae

1st Reading March 27th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill would require that all employers with more than twenty employees (unless exempted by regulation) establish joint committees of workers and managers, to prepare affirmative action programs which would become binding upon the employer when approved by the Director of the Affirmative Action Office or by the Affirmative Action Tribunal. The Minister of Labour could, by order, extend the same requirement to individual employers with twenty or fewer employees. All employers would be required to file reports at intervals concerning matters relating to the participation of women in their work forces.

Failure to establish a joint committee or comply with a binding affirmative action program would lead to a compliance order by the Director or by the Tribunal. Failure to comply with such an order would constitute an offence punishable by a maximum fine of \$10,000 (\$25,000 in the case of a corporation). Higher fines could be imposed on subsequent convictions.

The Affirmative Action Office is intended to assist joint committees in the preparation of affirmative action programs, to analyze the programs for the Director, to monitor their implementation, to identify occupational categories in which women are now under-represented, including new occupations, to provide research, support and public educational services and generally to promote affirmative action.

The Bill provides for a comprehensive skills training, retraining and apprenticeship program, designed to increase to at least 50 per cent the numbers of women in occupational categories in which they are now under-represented.

The Bill also contains an amendment to the *Employment Standards Act* that would repeal Part IX of the Act (Equal Pay for Equal Work) and substitute, instead, a new Part entitled "Equal Pay for Work of Equal Value".

The new Part IX requires an employer to pay his or her male and female employees equal amounts for work of equal value. An assessment of the value of work may be made by an employment standards officer, and the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed. The reduction of wages to achieve compliance is prohibited. Employees and employee organizations are entitled to make complaints and are given appeal rights that correspond to those available to employers.

Bill 15**1984**

**An Act to provide for Affirmative Action
and Equal Pay for Work of Equal Value**

WHEREAS unequal and discriminatory conditions of employment for women impose a burden both on the women directly affected and on the larger community; Preamble

AND WHEREAS women's average employment earnings in Ontario are lower than those of men and women's right to participate fully in the labour force is severely limited by barriers such as the lack of adequate universally accessible child care and other support services;

AND WHEREAS it is public policy in Ontario to promote the economic equality of all working people;

AND WHEREAS the Legislative Assembly has endorsed the principle of equal pay for work of equal value;

AND WHEREAS it is public policy in Ontario to improve women's access to new occupations and to occupations in which they have traditionally been under-represented;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "affirmative action" means action intended to improve the economic status of women and overcome barriers to their equal participation in the work force;
- (b) "affirmative action program" means a program prepared under subsection 8 (1);
- (c) "Director" means the Director of the Affirmative Action Office;

R.S.O. 1980,
c. 137

- (d) "employee" and "employer" have the same meanings as in the *Employment Standards Act*;
- (e) "joint committee" means a committee established under subsection 7 (1) or (2);
- (f) "Minister" means the Minister of Labour;
- (g) "Ministry" means the Ministry of Labour;
- (h) "prescribed" means prescribed by the regulations;
- (i) "regulations" means the regulations made under this Act;
- (j) "Tribunal" means the Affirmative Action Tribunal.

Adminis-
tration

2. The Minister is responsible for the administration of this Act.

Affirmative
Action Office

3. There shall be an office in the Ministry of Labour to be called the Affirmative Action Office, and the Affirmative Action Office shall,

- (a) assist joint committees, on their request, in the preparation of affirmative action programs;
- (b) receive and analyze affirmative action programs and make recommendations to the Director respecting their approval;
- (c) monitor the implementation of affirmative action programs;
- (d) conduct research into matters relating to the participation of women in the work force; and
- (e) promote affirmative action by programs of public education and other means.

Director

4. There shall be a Director of the Affirmative Action Office, and the Director shall perform the duties and exercise the powers given to the Director under this or any other Act.

Affirmative
Action
Tribunal

5.—(1) There shall be a tribunal to be known as the Affirmative Action Tribunal, composed of,

- (a) two representatives of labour;
- (b) two representatives of business; and

- (c) one member of the Ontario Human Rights Commission,

at least two of whom shall be women and who shall be appointed by the Lieutenant Governor in Council.

(2) The Tribunal shall hold the hearings and perform the other duties that are assigned to it under this Act. Duties

(3) The member of the Tribunal who is a member of the Ontario Human Rights Commission shall be the chairperson of the Tribunal. Chairperson

(4) The members of the Tribunal shall elect one or more of their number as vice-chairperson or vice-chairpersons. Vice-chairperson

(5) Three members of the Tribunal, one of whom shall be the chairperson or vice-chairperson, constitute a quorum and may exercise all the powers of the Tribunal despite any vacancy in the membership. Quorum

(6) The chairperson shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as the circumstances require. Duties

(7) The Tribunal shall prepare and annually publish a summary of its decisions and the reasons therefor. Publishing reports

(8) The Lieutenant Governor in Council may appoint a Registrar for the Tribunal who shall perform the duties that are assigned to him or her under this Act or by the chairperson of the Tribunal. Registrar of the Tribunal

(9) The Registrar of the Tribunal and every member of the Tribunal has power to administer oaths and affirmations for the purpose of its proceedings. Administration of oaths

6. Every employer shall provide to the Affirmative Action Office, at the prescribed intervals, such information relating to employment practices, rates of pay, occupational categories and numbers of men and women in those categories, recruitment, promotion and other related matters as is prescribed. Employers to report re participation of women, etc.

7.—(1) Every employer who employs more than twenty employees shall establish and maintain a joint committee consisting of at least four persons, of whom at least half shall be employees who do not exercise managerial functions and shall be selected by the employees they are to represent or, where Joint committee

there is a trade union or trade unions representing the employees, by the trade union or trade unions.

Minister's
order

(2) The Minister may, by order in writing, require an employer who does not employ more than twenty employees to establish and maintain a joint committee and may, in the order, provide for the composition, practice and procedure of the committee.

Women to
be
represented

(3) A proportion of the employees' representatives on a joint committee shall be women and the proportion shall be at least equivalent to the proportion of women in the workplace.

Sub-
committees

(4) An employer may establish subcommittees of the joint committee for different departments or divisions of the employer's business.

Entitlement
to time from
work

(5) A member of a joint committee or subcommittee is entitled to such time from his or her work as is necessary to attend meetings of the committee and to carry out his or her duties under subsection 8 (1), and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at his or her regular or premium rate as may be proper.

Affirmative
action
program

8.—(1) A joint committee shall, within six months of the day on which it is established or within such longer period as the Director authorizes, prepare a program to remedy discriminatory practices and encourage the recruitment and training of women by the employer, and the program,

- (a) shall set targets with timetables for the employment of women in all the employer's occupational categories;
- (b) shall provide for regular review by the joint committee of the progress made in the achievement of targets set under clause (a);
- (c) may provide, at the employer's expense, for employee upgrading programs, employee training programs, child care assistance or subsidies and other support services to encourage the full participation of women in the employer's workforce; and
- (d) shall provide for equal pay for work of equal value.

Employer to
share
information
with joint
committee

(2) The employer shall furnish the joint committee with the information provided to the Affirmative Action Office under section 6, and shall also give the joint committee full access,

on a confidential basis, to the employer's employee records and records relating to recruitment, pay and promotion.

(3) A joint committee may request the assistance of the Affirmative Action Office in preparing an affirmative action program. Assistance by
Affirmative
Action Office

9.—(1) An affirmative action program prepared under subsection 8 (1) shall be submitted to the Director for approval. Director to
approve
affirmative
action
program

(2) On receiving an affirmative action program for approval, the Director shall by order, Powers of
Director

(a) approve the affirmative action program;

(b) approve the affirmative action program subject to modifications; or

(c) refer the affirmative action program back to the joint committee for modification and resubmission within a specified time.

(3) A joint committee may appeal to the Tribunal from an order made by the Director under clause (2) (b) or (c) within thirty days from the date of the order. Appeal to
Tribunal

(4) Where an order is appealed under subsection (3), the Tribunal shall appoint a time for and hold a hearing into the matter and may, Hearing and
order

(a) confirm the Director's order;

(b) approve the affirmative action program; or

(c) approve the affirmative action program subject to modifications.

10.—(1) Where a joint committee cannot agree upon the terms of an affirmative action program, the employees' representatives, the employer's representatives or the joint committee as a whole shall apply to the Tribunal for an order fixing the terms of and approving the affirmative action program or fixing certain terms of the affirmative action program. Application
to Tribunal
where joint
committee
cannot agree

(2) Where an application is made under subsection (1), the Tribunal shall appoint a time for and hold a hearing into the matter and may, Hearing and
order

- (a) fix the terms of and approve the affirmative action program; or
- (b) fix certain terms of the affirmative action program and refer it back to the joint committee for completion and submission to the Director within a specified time.

When affirmative action program takes effect

11.—(1) An affirmative action program is binding upon an employer,

- (a) when the Director or the Tribunal approves it; or
- (b) when the Director or the Tribunal approves it, subject to modifications.

Final version to be filed

(2) Where an affirmative action program is approved with or without modifications, a copy of the final version shall be filed with the Director.

Binding affirmative action program deemed special program 1981, c. 53

(3) A binding affirmative action program shall be deemed to be a special program that satisfies the requirements of subsection 13 (1) of the *Human Rights Code, 1981*.

Complaint by individual or group

12.—(1) An individual, group of individuals or employees' organization may make a complaint to the Director respecting the employer's alleged failure to comply with subsection 7 (1) or with a binding affirmative action program.

Order to comply

(2) Where the Director believes on reasonable and probable grounds that an employer has failed to comply with section 6 or subsection 7 (1), or with an order made by the Minister under subsection 7 (2), or is failing to comply with a binding affirmative action program, the Director may order the employer to comply with section 6, subsection 7 (1), the Minister's order or the affirmative action program, as the case may be.

Notice of proposal

(3) Where the Director proposes to make an order under subsection (2), the Director shall serve notice of the proposed order on the employer and on the individual or one of the individuals, or the organization, if any, who made a complaint, or, where there was no complaint, on a representative of the employees, together with written reasons therefor.

Request for hearing

(4) A notice under subsection (3) shall inform the employer named in the order that the employer is entitled to a hearing by the Tribunal if the employer mails or delivers to the Direc-

tor and the Tribunal, within fifteen days after the notice under subsection (3) is served on him or her, notice in writing requiring a hearing.

(5) Where the employer upon whom a notice is served under subsection (3) does not require a hearing, the Director may carry out the proposed order described in the notice. Failure to request hearing

(6) Where an employer requests a hearing by the Tribunal in accordance with subsection (4), the Tribunal shall appoint a time for and hold the hearing and may by order direct the Director to carry out the proposed order or to take such action as the Tribunal considers the Director ought to take in accordance with this Act and for the purpose the Tribunal may substitute its opinion for that of the Director. Hearing

(7) The individuals or organization, if any, who made a complaint under subsection (1), or, where there was no complaint, the representative of the employees on whom notice of the proposed order was served under subsection (3), are entitled to attend the hearing and make representations to the Tribunal. Idem

(8) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act. Conditions

(9) The rights conferred by subsection (1) are in addition to and not in substitution for rights under any other Act. Existing rights preserved

13.—(1) The Minister may by order appoint a person to make an investigation into any matter to which this Act applies, as specified in the Minister's order, and the person appointed shall report the result of the investigation to the Minister. Investigations on Minister's order

(2) For the purposes of an investigation ordered under subsection (1), the person making it has the powers of a commissioner under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. Powers of investigator
R.S.O. 1980,
c. 411

14.—(1) Every person who, knowingly, Offences

- (a) provides false information or fails to provide information under section 6;
- (b) furnishes false information in an investigation under this Act;

- (c) fails to comply with an order of the Director or of the Tribunal made under this Act; or
- (d) obstructs a person making an investigation under section 12,

is guilty of an offence and on conviction is liable to a fine, upon a first conviction, of not more than \$10,000, and upon a subsequent conviction, of not more than \$20,000.

Corporations (2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed upon the corporation is, upon a first conviction, \$25,000, and upon a subsequent conviction, \$50,000.

Directors and officers (3) Where a corporation is convicted under subsection (1), each director or officer of the corporation who authorized, permitted or acquiesced in the offence is a party to the offence.

Failure to comply with Act; government contracts **15.**—(1) It shall be deemed to be a condition of every contract entered into by or on behalf of the Crown or any of its agencies and of every subcontract entered into in the performance thereof that this Act will be complied with in the course of performing the contract.

Government grants and loans (2) It shall be deemed to be a condition of every grant, contribution, loan or guarantee made by or on behalf of the Crown or any of its agencies thereof that this Act will be complied with in the course of carrying out the purposes for which the grant, contribution, loan or guarantee was made.

Sanctions (3) Where a person is convicted of an offence under subsection 14 (1) and the offence constitutes a breach of a condition under this section, the breach of condition is sufficient grounds for cancellation of the contract, grant, contribution, loan or guarantee.

Identification of occupational categories **16.**—(1) The Affirmative Action Office shall identify, on the basis of information reported under section 6 and on the basis of its own research, those occupational categories, including new occupations, in which women are under-represented.

Comprehensive skills training and apprenticeship plan (2) The Government of Ontario shall develop a comprehensive skills training, retraining and apprenticeship program designed to increase the number of women in each of the occupations and occupational categories identified under subsection (1) to at least 50 per cent and to ensure that sufficient

numbers of women are trained to meet this goal in light of anticipated needs for skilled tradespersons.

(3) The Government of Ontario may direct that any fund established under clause 17 (e) be devoted to,

Skills training
and
affirmative
action fund

- (a) training and upgrading allowances for employees;
- (b) child care subsidies for persons involved in apprenticeship or other job training programs;
- (c) the provision of counsellors familiar with the special needs of women in the workforce and the barriers to their full participation in the workforce; or
- (d) any similar purpose intended to promote affirmative action.

(4) The Affirmative Action Office shall, after the close of each year, file with the Minister an annual report upon the skills training, retraining and apprenticeship program and the implementation of affirmative action programs.

Annual
report

(5) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

17. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing forms and providing for their use;
- (b) exempting any class of employer from this Act or any provision of this Act;
- (c) prescribing the information to be provided under section 6 and prescribing the intervals at which the information is to be provided;
- (d) exempting contracts, grants, contributions, loans or guarantees of a value below a prescribed monetary level from section 15, and prescribing the level;
- (e) requiring employers or any class of employers to contribute to a skills training and affirmative action fund or funds.

18. Part IX of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

PART IX

EQUAL PAY FOR WORK OF EQUAL VALUE

Equal pay
for work
of equal
value

33.—(1) No employer or person acting on behalf of an employer shall establish or maintain any difference in wages paid to a male and to a female employee employed in the same establishment who are performing work of equal value unless the difference is based on seniority or quantity of production.

Determi-
nation by
employment
standards
officer

(2) An employment standards officer may assess the value of work performed for the purposes of subsection (1) and, where the officer finds that an employer has failed to comply with subsection (1), the officer may determine the amount of money owing to an employee because of the non-compliance, including any expenses incurred by the employee in enforcing subsection (1), and the amount shall be deemed to be unpaid wages.

Assessment
of value of
work

(3) In assessing the value of work performed by employees employed in the same establishment, the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed.

Separate
establishments

(4) Separate establishments established or maintained by an employer solely or principally for the purposes of establishing or maintaining differences in wages between male and female employees shall be deemed for the purposes of this Part to be a single establishment.

Pay not to
be reduced

(5) No employer shall reduce the rate of pay of an employee in order to comply with subsection (1).

Employer
not to be
requested to
contravene
subs. (1)

(6) No organization of employers or employees or its agents shall cause or attempt to cause an employer to agree to or to pay to his or her employees wages that are in contravention of subsection (1).

Complaints

(7) A complaint that an employer contravenes this section may be made by an employee, a class of employees employed in the same establishment or an employees' organization.

Review and
hearing

(8) An employer, employee or class of employees that is aggrieved by a decision or order made by an employment

standards officer under this Part or section 47 may, within a period of fifteen days after the date of delivery, service or notice of the decision or order, or such longer period as the Director may for special reasons allow, apply for a review of the decision or order by way of a hearing before a referee and subsections 50 (2) to (7) apply to the review, with necessary modifications, except that the referee has the power to make an order under section 47 in addition to the powers conferred by section 50.

(9) The Minister shall table a report annually in the Legislature on the progress of compliance with this Part and the annual reports shall be referred to a standing or special committee of the Legislature every three years. Annual report

19. This Act binds the Crown and its agencies. Crown bound

20. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

21. The short title of this Act is the *Women's Economic Equality Act, 1984*. Short title

Bill 16

An Act respecting a Register of Ontario Land Information

Mr. Martel

1st Reading March 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would authorize the creation of a public register showing the ownership of all privately held land in Ontario, the use of the land, and whether its owner is a resident or non-resident of Canada. Every owner, purchaser or vendor of an interest in land in Ontario would be subject to a reporting requirement.

Bill 16**1984**

**An Act respecting a
Register of Ontario Land Information**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “Director” means the Director appointed under this Act;
- (b) “interest in land” means the fee or the equity of redemption in or a power or right to grant, assign or exercise a power of appointment in respect of land;
- (c) “non-resident corporation” means a corporation, regardless of the jurisdiction in which it was formed or organized, that,
 - (i) is controlled directly or indirectly by one or more non-resident persons,
 - (ii) has issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to one or more non-resident persons,
 - (iii) has issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to any one non-resident person,
 - (iv) has a board of directors, one-half or more of which is composed of non-resident persons, or
 - (v) in the case of a corporation without share capital, has a membership, one-half or more of which is composed of non-resident persons;

- (d) "non-resident person" means,
- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor a person who has been lawfully admitted to Canada for permanent residence in Canada,
 - (ii) a non-resident corporation,
 - (iii) a partnership, syndicate, association or other organization of which one-half or more of the members are non-resident persons or in which interests representing 50 per cent or more of the total value of the property of the partnership, syndicate, association or organization are beneficially owned by non-resident persons, or
 - (iv) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iii) hold 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom;
- (e) "prescribed" means prescribed by the regulations made under this Act.

Ordinarily
resident
defined

(2) For the purpose of clause (1) (d), an individual shall be considered to be ordinarily resident in Canada if at the time the expression is being applied, the individual,

- (a) has sojourned in Canada during the next preceding twenty-four months for a period of, or periods the aggregate of which is, 366 days or more;
- (b) is a member of the Canadian Forces required to reside outside Canada;
- (c) is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (d) is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is pre-

scribed for the purposes of paragraph 250 (1) (d) of the *Income Tax Act* (Canada), and resided in Canada at any time in the three-month period preceding the day on which such services commenced; or

R.S.C. 1952, c. 148

- (e) resides outside Canada and is the spouse or child of, and is living with, an individual described in clause (b), (c) or (d).

2.—(1) Every person who holds an interest in land in Ontario on the 31st day of December, 1984 shall, on or before the 1st day of April, 1985, file with the Director a report in the prescribed form,

Report re ownership and use

- (a) setting out the person's interest in the land;
- (b) describing the use of the land;
- (c) declaring whether the person is a non-resident person; and
- (d) setting out the municipal address and a brief description of the land.

(2) Every person who acquires an interest in land in Ontario, whether by way of a conveyance, purchase of shares in a corporation that has such an interest, or otherwise, on or after the 31st day of December, 1984, shall within ninety days after the date of the conveyance or acquisition file with the Director a report in the prescribed form,

Idem

- (a) setting out the person's interest in the land;
- (b) describing the use of the land;
- (c) declaring whether the person is a non-resident person; and
- (d) setting out the municipal address and a brief description of the land.

(3) Every person who disposes of or conveys away an interest in land in Ontario after filing a report with respect to the land under subsection (1) or (2) shall, within ninety days after the date of the disposition or conveyance, file with the Director a notice in the prescribed form.

Notice re disposition

(4) Where a person files a report or notice under this section respecting an interest in land and the report or notice or accompanying material,

Where registration report not required

- (a) provides information on other persons who are also required to file a report or notice respecting the land; and
- (b) the information supplied under clause (a) is equivalent in nature and extent to the information required of a person filing a report or notice,

those other persons are not required to file a separate registration report respecting that land.

When resident deemed to be non-resident

3. For the purposes of this Act, where a person who is a resident of Canada has acquired or acquires an interest in land and knowingly holds that interest on behalf of a non-resident person, by agreement or otherwise, the first-named person shall be deemed to be a non-resident person in respect of that interest.

Contents of report and notice

4. Every report and notice shall set forth the prescribed information.

Appointment of Director

5. The Minister of Municipal Affairs and Housing may appoint a Director of a branch of the Ministry to administer and enforce this Act.

False information

6. No person shall furnish false information in any report or notice filed under this Act.

Offence

7. Every person who contravenes any provision of this Act or the regulations and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Public register

8. The Director shall maintain all reports and notices filed under section 2 in a register and shall make the register available for inspection and copying by the public at the Director's office during ordinary business hours.

Regulations

9. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of and the information to be contained in a report under subsection 2 (1) or (2);
- (b) prescribing the form of and the information to be contained in a notice under subsection 2 (3);
- (c) prescribing forms other than those mentioned in clauses (a) and (b) and providing for their use.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

11. The short title of this Act is the *Ontario Land Information Act, 1984*. Short title

Bill 17

An Act to revise the Election Act

The Hon. T. L. Wells

Minister of Intergovernmental Affairs

1st Reading March 29th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is in substantially the form of Bill 153, introduced and given first reading only, in the last Session of the Legislature. Among the principal features of the Bill are the following:

1. Certain election terms have been changed to more accurately reflect the nature of the proceedings. Set out below is a Table showing the existing expression on the left and on the right the corresponding expression used in the Bill:

FROM	TO
Polling Subdivision	Polling Division
List of Voters	List of Electors
Voter (up to time of voting)	Elector
Assistant Revising Officer	Revision Assistant
Official Count	Official Tabulation

2. The position of official agent has been deleted in view of the provision in the *Election Finances Reform Act* requiring all candidates to appoint a chief financial officer.
3. Any references to time in the Act refer to the time that is in effect locally. (s. 2).
4. Polls will open at 9 a.m. and close at 8 p.m., except in the electoral districts of Kenora and Rainy River, where they will open at 8 a.m. and close at 7 p.m. Polls throughout Ontario will accordingly open and close simultaneously. (s. 40).
5. Employers are to allow polling officials appointed by the returning officer a leave of absence to perform their duties. (s. 6).
6. The minimum election period is changed to thirty days and the maximum to sixty-seven days. (s. 9).
7. Effective July 1, 1986, British subjects who are not Canadian citizens will not qualify to vote at an election; on the same date, the present requirement of twelve months' residency in Ontario will be reduced to six months' residency. (s. 15).
8. Effective July 1, 1986, British subjects who are not Canadian citizens will not be qualified to be candidates; on the same date, the present requirement of twelve months' residency in Ontario will be reduced to six months' residency. (s. 26).
9. The prohibition against returning officers and election clerks voting is removed.
10. The disqualification from voting of mentally ill persons is clarified. (s. 16).
11. The timing of the enumeration of electors is to be decided by the Chief Election Officer. (s. 18).
12. Voting proxy certificates may be obtained up to and including the day immediately preceding polling day; in addition, the grounds upon which a person is entitled to appoint a voting proxy are enlarged and a person may be a voting proxy for only two electors. (s. 17).

13. The category of persons who may represent an applicant at the revision is broadened. (s. 22 (2)).
14. Provision is made for the issuing of a certificate to vote, up to and including the day immediately preceding polling day to any elector whose name does not appear in the polling list. (ss. 22,24).
15. Provision is made for the returning officer to provide to each candidate a list of persons to whom a certificate to vote has been issued. (s. 21 (9)).
16. At the general poll, polling places shall, so far as is reasonably possible, provide level access for wheelchairs; such wheelchair access is mandatory at the advance polls. (ss. 13,44).
17. Landlords of buildings of 100 dwelling units or more, municipalities and school boards must, on the request of a returning officer, make premises under their control available as polling places. (s. 13).
18. The wording of the nomination procedure is changed to include the following requirements:
 - (a) the signatures of twenty-five electors;
 - (b) a deposit of \$200;
 - (c) the undertaking of a candidate to file an application for registration under the *Election Finances Reform Act*. (s. 27).
19. The deadline for providing to the returning officer a list of persons as nominations by candidates for enumerators is extended to seventy-two hours previous to the start of enumeration and the deadline for nominating poll officials is extended to seven days previous to polling day. (ss. 18,39).
20. Provision has been made for additional advance polls in the office of the returning officer on certain specified days between the hours of 11 a.m. and 8 p.m. (s. 44).
21. Advance polls at other locations are to be held on the Thursday, Saturday and Monday immediately preceding polling day; the locations must give access to wheelchairs; no declaration is required of any elector presenting himself at an advance poll. (ss. 44,45).
22. The provision permitting the ballot of an elector who is blind to be marked by a friend is extended to all disabled electors. (s. 55).
23. Provision is continued, in the event of a tie after the official tabulation or after a judicial recount, that the successful candidate will be determined by a casting vote given by the returning officer. (ss. 66,76).
24. The maximum penalties that may be imposed for various election offences are increased; generally from \$1,000 to \$5,000. (ss. 89,96).
25. Sections 142, 143, 161, 162 and 163 of the existing Act are dropped as redundant in light of the *Election Finances Reform Act*.
26. Sections have been added dealing with the office of the Chief Election Officer setting out the manner of appointment of staff, their job classifications, salaries and other benefits. (ss. 113 to 116).

27. Section 6 of the *Legislative Assembly Act*, dealing with the qualification of members, is amended effective on the dissolution of the Legislature that occurs after July 1, 1986; after that date British subjects who are not Canadian citizens will not be qualified to sit and vote as members of the Assembly. (s. 117).

Bill 17**1984****An Act to revise the Election Act****CONTENTS**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

Interpretation

1. In this Act,

- (a) "advance poll" means a poll held under section 44;
- (b) "ballot" means a ballot used for the conduct of an election;
- (c) "Board" means the Board of Internal Economy referred to in section 84 of the *Legislative Assembly Act*;
- (d) "candidate at an election" and "candidate" mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (e) "corrupt practice" means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;
- (f) "election" means an election of a member or members to serve in the Assembly;
- (g) "elector" means a person who is entitled under this Act to vote at an election to the Assembly;
- (h) "electoral district" means an electoral district as set out in the *Representation Act*;
- (i) "general election" means an election in respect of which election writs are issued for all electoral districts;
- (j) "polling division" means a polling division established by the returning officer in accordance with this Act;
- (k) "polling list" means the list of electors furnished to a deputy returning officer by the returning officer in accordance with this Act;

R.S.O. 1980,
c. 235

R.S.C. 1970,
c. C-34

R.S.O. 1980,
c. 450

(l) "prescribed" means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;

(m) "registered candidate" means a candidate registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

(n) "registered party" means a political party registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;

(o) "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place maintained by him and to which, whenever he is absent, he has the intention of returning, subject to the following rules:

1. The place where a person's family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
 - i. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
 - ii. he has no quarters in any other electoral district to which he might at will remove;

(p) "voter" means an elector who has appeared at a polling place and has accepted a ballot for marking which has been placed in the ballot box or has declined his ballot and so declared.

TIME

References
to time

2. Any expression of or reference to time in this Act refers to the time that is in effect locally, that is, either standard time or daylight saving time, as the case may be.

OATHS

Oaths and
statutory
declarations,
who may
take

3.—(1) Except where otherwise provided, an oath or statutory declaration for the purposes of this Act may be taken by a returning officer, election clerk, revision assistant, justice of the peace, a commissioner for taking affidavits or a notary public and for election purposes, deputy returning officers and poll clerks are empowered to take such oaths or declarations at the poll.

No charge
for taking
oath or
declaration

(2) Every person taking an oath or statutory declaration under or for the purposes of this Act shall do so gratuitously.

ADMINISTRATION

Appointment
of C.E.O.
and
A.C.E.O.

4.—(1) The Lieutenant Governor in Council, on the address of the Assembly, shall appoint, as an officer of the Assembly, a Chief Election Officer, who shall be responsible for the administration of this Act and the Lieutenant Governor in Council may appoint, as an officer of the Assembly, an Assistant Chief Election Officer.

Remuneration
of C.E.O.

(2) The Chief Election Officer shall be paid such salary as may be determined by the Lieutenant Governor in Council.

Salary of
C.E.O. paid
out of
Consolidated
Revenue
Fund

(3) The salary of the Chief Election Officer shall be charged to and paid out of the Consolidated Revenue Fund.

Powers and
duties of
C.E.O.

(4) The Chief Election Officer shall consult with, advise and supervise the returning officers and election clerks in the performance of their duties, and may visit in person and consult with the deputy returning officer and poll clerk at any polling location.

Powers and
duties of
A.C.E.O.

(5) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the same powers and shall perform the same duties as the Chief Election Officer.

Appointment
of Acting
C.E.O.

(6) If at any time subsequent to the issue of the writs for an election the office of Assistant Chief Election Officer is vacant

and if the Chief Election Officer is absent or through illness is unable to perform the duties of his office or if the office is vacant, the Lieutenant Governor in Council may appoint some person as Acting Chief Election Officer to hold office during such period of time as is specified in the appointment and the Acting Chief Election Officer shall act in the place of the Chief Election Officer and while so acting possesses the same powers and shall perform the same duties as the Chief Election Officer.

(7) Where in the opinion of the Chief Election Officer, by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under this Act, he may make such appointments or give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to the candidates affected.

In cases of emergency, etc.

(8) The Chief Election Officer may delegate in writing to any officer on his staff authority to exercise any power and perform any duty, other than those mentioned in subsection (7), assigned to him by this Act.

Delegation

(9) The Chief Election Officer shall prescribe the forms for use under this Act.

Forms

(10) The prescribing of forms under subsection (9) or the exercise of any power or the performance of any duty by the Chief Election Officer that he is authorized or required to exercise or perform under this Act shall be deemed to be an act or acts of an administrative nature.

Administrative in nature

5.—(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

Persons excluded from being returning officers, etc.

1. Judges of federal or provincial courts.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Executive Council.
4. Members of the Parliament of Canada or of the Assembly.
5. Persons who have served as members of the Assembly in the session next preceding the election.

6. Persons who have at any time been found guilty of a corrupt practice.

Validity of election not affected

(2) A contravention of this section does not affect the validity of the election.

EMPLOYEES SERVING OR VOTING AT AN ELECTION

Leave to be granted to employee to serve

6.—(1) Every employer shall, on request made not later than seven days before the time required, grant leave to an employee who has been appointed by a returning officer to serve as a poll official to enable him to perform his duties and the employer may not dismiss an employee who has been so appointed.

Remuneration

(2) The employer is not required to remunerate his employee for any leave granted under subsection (1), but such leave shall not be subtracted from any vacation entitlement.

Employees to have three consecutive hours for voting

(3) Every employee who is qualified to vote shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of voting and, if the hours of his employment do not allow for three consecutive hours, he may request that his employer allow him such additional time for voting as may be necessary to provide those three consecutive hours and the employer shall grant the request.

Deduction from pay prohibited

(4) No employer shall make any deduction from the pay of any employee or impose upon or exact from him any penalty by reason of his absence from his work during the consecutive hours that the employer is required to allow him under subsection (3).

Time off best suiting convenience of employer

(5) Any time off for voting as provided in subsection (3) shall be granted at the time of day that best suits the convenience of the employer.

RETURNING OFFICERS

Appointment of R.O.

7.—(1) The Lieutenant Governor in Council shall appoint a returning officer for each electoral district.

Qualifications of R.O.

(2) A returning officer must be of voting age, a Canadian citizen and resident in Ontario.

Refusal or incapacity to act

(3) If the person appointed as returning officer under subsection (1) dies, refuses to act, is incapacitated or resigns in accordance with subsection (9) or is discharged under subsection (10) or (11), some other person may be appointed by the Lieutenant Governor in Council as returning officer.

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Notification of appointment

(5) Every returning officer immediately upon receiving notice of his appointment shall take the prescribed oath, faithfully to perform his duties without partiality, fear, favour or affection.

Oath of R.O.

(6) Subject to the direction of the Chief Election Officer, every returning officer shall provide for such clerical and other assistance as is necessary in the performance of his duties.

Clerical and other assistance

(7) A returning officer shall consult with, advise and supervise the deputy returning officers and poll clerks in the performance of their duties and he or his election clerk or his delegate may visit and consult with the deputy returning officer and poll clerk at any polling location in the electoral district.

Powers and duties of R.O.

(8) A returning officer shall comply with any oral or written instruction received from the Chief Election Officer.

Instructions from C.E.O.

(9) A returning officer who is appointed under this Act shall continue in office as returning officer for the electoral district until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection (10) or (11).

Term of office

(10) The Lieutenant Governor in Council may remove from office any returning officer who,

Removal from office

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

(11) The Chief Election Officer may, at any time during an election period, remove from office any returning officer who, in the opinion of the Chief Election Officer, fails to discharge competently his duties, or any of them, under this Act.

Idem

(12) No person shall obstruct or interfere with the returning officer or his staff or contrive any hindrance to the exercise of their rights or the performance of their duties under this Act.

Obstruction

ELECTION CLERK

8.—(1) Forthwith upon his appointment, the returning officer may appoint in writing a person who is of voting age, a

Election clerk

Canadian citizen and resident in Ontario to be his election clerk but if upon receipt of a writ of election no person has been appointed, the returning officer shall immediately make the appointment.

Relatives

(2) No person who is a child, grandchild, brother, sister, parent, grandparent or the spouse of the returning officer shall be appointed as election clerk without the prior approval of the Chief Election Officer.

Appointment
of new
election
clerk

(3) The returning officer at any time and for any reason may appoint in writing a new election clerk in the place of the person previously appointed.

Duties

(4) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or is disqualified or refuses or is unable to perform his duties during an election and has not been replaced, shall act in his stead as the returning officer.

Oath
of election
clerk

(5) The election clerk before entering upon his duties shall take the prescribed oath.

DATES FOR CLOSE OF NOMINATIONS AND POLLING

Close of
nominations
and election
day

9. When an election is to be held, the Lieutenant Governor in Council may appoint and proclaim a day,

(a) for the close of nominations and the grant of a poll where required, which day shall be a Thursday, that is not later than the fifty-third day and not sooner than the seventeenth day after the date of the writs of election; and

(b) for the taking of a poll, which day shall be the Thursday, that is the fourteenth day after the grant of a poll, unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in that case the day fixed for the poll shall be Friday of the same week.

R.S.O. 1980,
c. 219

WRITS

Writs to
bear same
date

10.—(1) The writs for a general election shall all be dated on the same day and shall be addressed to the returning officers.

Writs to state
nomination
and
polling days

(2) A writ of election shall state the respective days for the close of nominations and for the polling, if required, and is returnable forthwith after the election.

(3) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

Endorsement on writ

(4) If a writ for an election has been issued to a person in whose stead a new returning officer has been appointed under subsection 4 (7) or under subsection 7 (3), a new writ may be issued or the new returning officer or the election clerk, if applicable, may act under the writ already issued and the validity of the proceedings prior to the new person acting may not be questioned but the new or acting returning officer may appoint a new election clerk.

Where appointment superseded

PROCLAMATION

11.—(1) Forthwith after receipt of the writ of election, the returning officer shall by proclamation, declare,

Proclamation by returning officer

- (a) the dates, place and times during which the list of electors may be revised;
- (b) the date, place and time fixed for the close of nominations of candidates and for the granting of a poll, if required; and
- (c) the days and hours fixed for holding the advance polls and the general poll.

(2) The returning officer shall cause the proclamation to be printed and copies to be posted in conspicuous places on public or private property in the electoral district and the Chief Election Officer or the returning officer may arrange for the proclamation to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Posting, etc., of proclamation

POLLING DIVISIONS

12.—(1) The returning officer shall divide his electoral district into urban and rural polling divisions as directed by the Chief Election Officer and shall, on an annual basis or as directed by the Chief Election Officer, review his electoral district as to population distribution and shall, in collaboration with the clerk of each municipality contained within the electoral district, consider any changes to polling division boundaries.

Polling divisions

(2) Following any revision of boundaries as may be authorized by the Chief Election Officer, the returning officer shall prepare and submit to the Chief Election Officer one complete set of typed descriptions of the polling divisions established under subsection (1) together with a map or maps of

Description of polling divisions

the electoral district boldly marked with the polling division boundaries and the number assigned to each polling division.

POLLING PLACES

Polling places

13.—(1) Subject to subsection (5) and to section 14, the returning officer shall arrange for at least one polling place for each polling division in the most central or most convenient place for the electors, furnished with light and heat and such other accommodation and furniture as may be required, and if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling division, such as in the case of multiple polling places established at one location.

Union of polling divisions

(2) The returning officer may unite two or more adjoining polling divisions and provide one polling place for the united divisions.

Location of polling places

(3) The poll may be situated in any public building or on private property and shall so far as is reasonably possible give access to wheelchairs.

When landlord, municipality, school board, etc., to furnish facilities

(4) Where, in the opinion of the returning officer, it is necessary to ensure to the maximum number of electors access to conveniently located polling places,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality;
- (c) a school board; or
- (d) a provincially funded institution,

shall, on the request of the returning officer made not less than fourteen days prior to polling day, make any premises under his or its control available as a polling location.

Where polling places not to be R.S.O. 1980, c. 244

(5) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional polling places

(6) The returning officer may provide such additional polling places in any polling division as are required having regard to the extent of the division, and the number of electors that may conveniently vote at one polling place and the returning officer shall determine how each such polling place shall be designated and an elector is entitled to vote only at the appropriate polling place.

(7) The returning officer shall prepare a list of the polling places within his electoral district showing the location of each by polling division number.

List of
polling
places

(8) Every elector shall have free access to the poll.

Access to
poll

HOSPITALS, RETIREMENT HOMES, NURSING HOMES AND OTHER INSTITUTIONS

14.—(1) Where an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or who are disabled, a hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside or where a retirement home of fifty beds or more is situate in an electoral district, a polling place shall be provided in such institution or upon the premises.

Polling places
in hospitals,
etc.

(2) Electors resident at an institution referred to in subsection (1) and who are entered in the list of electors may vote at such polling place and the returning officer shall arrange for the deputy returning officer and the poll clerk to attend upon the electors at their bedsides or otherwise for the purpose of receiving their ballots.

Voting

(3) On the completion of their canvass of the residents, the poll officials may continue the poll in one location until full opportunity has been given for all resident electors to vote.

Continuation
of poll

(4) Each candidate and one of his scrutineers may be present at such a polling place except when a ballot is marked under section 55.

Presence of
candidate
and
scrutineer

QUALIFICATION OF ELECTORS

15.—(1) In an electoral district in which an election to the Assembly is to be held, every person is entitled to vote who, on the general polling day,

Electors

- (a) has attained eighteen years of age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day;
- (d) resides in the electoral district; and
- (e) is not disqualified under this Act or otherwise prohibited by law from voting.

Re-enactment
of (1) (b, c)

(2) Clauses (1) (b) and (c) are repealed and the following substituted therefor:

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

Effective
date of
re-enactment

(3) Subsection (2) does not come into force until the 1st day of July, 1986.

Evidence of
person
claiming
to be elector

(4) For the purposes of this section, a statutory declaration by a person claiming to be entitled to vote is *prima facie* proof of the facts declared to.

Requirement
to receive
ballot
and vote

(5) In order to receive a ballot and vote, an elector's name must appear in the list of electors or on a certificate to vote or have been lawfully added under the provisions of section 51.

PERSONS DISQUALIFIED FROM VOTING

Judges not
to vote

16.—(1) No judge of any court is entitled to vote at the election.

Disquali-
fication

(2) The following persons are disqualified from voting:

1. Every person who is an inmate in a penal or correctional institution.
2. Every person who is a patient in a psychiatric facility and in respect of whom a certificate of incompetence, issued pursuant to the *Mental Health Act*, or a declaration under the *Mental Incompetency Act* that he is a mentally incompetent person, is in effect.

R.S.O. 1980,
cc. 262, 264

PROXIES

Appointment
of proxy

17.—(1) Where an elector has reason to believe that he will be unable to vote at the advance poll or on polling day by reason of his,

R.S.C. 1970,
c. N-4

- (a) being a member of the Canadian Forces on active service as defined by the *National Defence Act*; or
- (b) being employed in the business of long distance transportation by railway, air, water or motor vehicle; or
- (c) business commitments or employer's directions; or

- (d) being a person certified by a legally qualified medical practitioner, by certificate filed with the returning officer, to be physically incapable of attending a polling place; or
- (e) being a student duly registered at a recognized education institution,

he may apply in writing to vote by proxy and appoint some other elector in the electoral district as proxy to vote for him at the election.

(2) No appointment of a proxy is valid unless it is made after the date of the issue of the writ of election and no such proxy remains in force after polling day. Term of appointment

(3) An elector may not act as proxy for more than two electors. Limitation

(4) On any day up to and including the day immediately preceding polling day, Certificate

- (a) a person appointed as a proxy voter under clause (1) (a), (b), (d) or (e); and
- (b) a person appointing a proxy under clause (1) (c) and the person appointed,

shall present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district.

(5) The returning officer or revision assistant shall examine the appointment and, on being satisfied as to the reason for a proxy being appointed and the eligibility and qualifications of the persons appointing the proxy and the person so appointed, shall require the latter to make a declaration in the prescribed form before issuing a certificate to vote. Idem

(6) A person appointed as a proxy voter must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote. Certificate to be presented

(7) An elector who has been appointed as a voting proxy is entitled to vote in his own right in his own polling division and, if within the same electoral district, may apply to the returning officer to have his name transferred to the polling list of the place where the proxy vote is to be cast or to have Proxy may vote in own right

the name of the person appointing the proxy transferred to the polling list of his polling place.

Cancellation
of
appointment

(8) An elector who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

Not more
than
one proxy

(9) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

ENUMERATION

Enumeration

18.—(1) Immediately following the issue of the writ for an election, the Chief Election Officer shall designate the period during which an enumeration of electors shall take place and shall advise the returning officer of the date on which the enumeration shall begin.

Nomination
of
enumerators

(2) After the issue of the writ and up to seventy-two hours before the enumeration is to begin,

- (a) the person who apparently will be the candidate at the election of the registered party represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators.

Selection
of
enumerators

(3) The returning officer shall select and appoint two persons of voting age as enumerators for each polling division, and with the approval of the Chief Election Officer may select persons at least sixteen years of age, and shall make such appointments as are necessary so that the enumerators for each polling division represent as far as possible two different political interests.

Idem

(4) If, seventy-two hours before the enumeration is to begin, sufficient names from which to select and make the appointment of the enumerators have not been received, the returning officer shall make such appointments as are necessary to enumerate the electoral district.

(5) No person who apparently will be a candidate at the election shall be an enumerator. Candidates

(6) ~~Forthwith~~ upon their appointment and before commencing their duties, the enumerators shall take the prescribed oath and the returning officer shall supply each pair of enumerators with sufficient materials for the proper conduct of the enumeration. Enumerators;
oath,
supplies

(7) The two enumerators shall act jointly and not individually in relation to each process in the preparation of the list of electors and in case of any disagreement they shall report the matter to the returning officer whose decision shall be final. Enumerators
to act
jointly

(8) The enumerators shall conduct their enumeration between the hours of 9 a.m. and 9 p.m. and, unless they have obtained the information required or unless an occupant of any dwelling unit has stated that no other elector remains to be enumerated, they must make a second visit between the hours of 5 p.m. and 7 p.m. and, if necessary, a third visit may be made between the hours of 7 p.m. and 9 p.m. Hours of
enumeration

(9) Each name and address obtained by the enumerators during their door-to-door canvass or as directed by the returning officer shall be entered on a record which shall be signed by both enumerators and a copy thereof left at each dwelling unit. Enumerator's
record

(10) Where, after making the required number of visits as set out in subsection (8), the enumerators are unable to obtain the information necessary, they shall leave at such dwelling unit the prescribed notice of their inability to obtain information. Notice of
inability
to obtain
information

(11) The enumerators shall at all reasonable times and upon producing proper identification have free access for the purposes of enumeration to the entrance door of each dwelling unit in any building having more than one dwelling unit. Enumerators
to have
free access

(12) No person shall obstruct or interfere with the enumerators or contrive any hindrance in the exercise of their rights or in the performance of their duties under this Act. Obstruction,
etc., of
enumerators

(13) The returning officer may at any time replace any enumerator by appointing another to act in his place and, upon receiving such notice in writing from the returning officer, the enumerator so replaced shall forthwith deliver to the returning officer all credentials, papers and materials which have been supplied. Replacement
of
enumerator

Forfeiture
of right
to payment

(14) An enumerator who neglects, omits or refuses to perform any of his duties under this Act or who refuses to comply with any direction in writing from the returning officer may forfeit his right to payment for any service or part thereof already rendered.

LIST OF ELECTORS

Preparation
of list of
electors

19.—(1) The enumerators, immediately after the completion of the canvass of their polling division, from their records shall prepare a list of electors legibly typewritten in the prescribed form,

- (a) under headings of thoroughfares by name and in numerical order of residence where such names and numbers are in effect;
- (b) under geographic area or municipal headings in alphabetical order by surname; or
- (c) as directed by the returning officer.

Delivery of
list to R.O.

(2) Not later than four days from the date of their appointment, the enumerators shall,

- (a) certify the total number of names contained in the list; and
- (b) unless otherwise directed by the returning officer, deliver the list to the returning officer together with all used and unused material.

Disposition
of list

(3) On receipt of and having accepted the list of electors from each pair of enumerators, the returning officer shall arrange for,

- (a) one copy of the list to be posted by the enumerators in urban areas in a conspicuous place in their polling division;
- (b) one copy of the list to be retained in the returning office;
- (c) one copy to be furnished as soon as possible to each candidate in the electoral district; and
- (d) up to twelve copies of the list to be furnished to each constituency association or candidate in the electoral district.

(4) Following preparation of the list of electors by the enumerators and up to and including the fourteenth day before polling day, any person who has knowledge of the fact that the name of an elector resident in an urban polling division has been omitted from the list, may so notify the returning officer.

Notification
of omitted
electors

(5) The returning officer may appoint pairs of special enumerators for the purposes of subsection (6) from among those who have already acted as such for the pending election or may appoint others in the manner provided by section 18.

Special
enumerators

(6) The returning officer, before the preparation of the polling lists, shall cause special enumerators to call once at the address of any elector referred to in subsection (4) and to enumerate such elector and any other electors at that address whose names were also omitted.

Enumeration

(7) On completion of the enumeration, the returning officer shall cause any names obtained under subsection (6) to be added directly to the list of electors compiled during the original enumeration or shall direct the special enumerators to prepare an additional list of electors by polling division number, in the prescribed form.

Addition to
list of
electors

(8) The returning officer shall supply to each candidate, on request, a copy of each list referred to in subsection (7).

Copies

COMPLAINT AGAINST NAME ON LIST

20.—(1) On any day up to and including the fourteenth day before polling day an elector may file with the returning officer a complaint, on the prescribed form, that the name of a person who should not be included, has been included in the list of electors.

Complaint
for wrongful
entry on list

(2) The returning officer, upon receipt of the complaint, shall send by registered mail to the person objected to at the address shown in the list and to such other address, if any, as may be mentioned in the complaint, a copy of the complaint along with a notice requiring such person or his representative to appear before the returning officer on a day to be named in the notice and a copy of the notice shall be given to the complainant.

Notice to
person
objected to

(3) On the day named in the notice and in the presence of any of the persons concerned with the complaint, the returning officer may hear an explanation by the person who filed the complaint as to the facts alleged and what is alleged by the

Hearing of
complaint

person or by the representative of the person against whom the complaint was made.

Decision

(4) The returning officer shall make such decision concerning the complaint as is warranted under the circumstances and that decision shall be final.

REVISION

Application for additions, corrections, etc., to list

21.—(1) Up to and including the day immediately preceding polling day, the returning officer shall consider all applications concerning the list of electors or the polling list with regard to the application for a proxy certificate, addition of a name, the correction of an error or the deletion of a name and his decision is final.

Revision assistants

(2) The returning officer may appoint his election clerk to assist him and, subject to the approval of the Chief Election Officer, may appoint additional revision assistants to act in the returning office or at other fixed locations and every such assistant shall have the same qualifications as the returning officer and the same powers at the revision as the returning officer.

Revising agents

(3) The returning officer may, subject to the approval of the Chief Election Officer, appoint two persons as revising agents for the purpose of enumerating qualified electors of a particular area, section or building containing multiple dwelling units within the electoral district who were missed by the enumerators.

Oath

(4) Every such assistant or agent appointed under subsection (2) or (3) upon being appointed shall take the prescribed oath.

Grounds must be sufficient

(5) Before making any addition, correction or deletion in the list of electors, the returning officer shall be satisfied that the applicant has provided sufficient grounds for the action requested and that the person appearing before him understands the effect of any statements made in the application.

Procedure where application refused

(6) If it appears to the returning officer that an application under subsection (1) should be refused, the decision shall be endorsed on the application along with his reasons and the applicant informed.

Irregularity not to affect result of election

(7) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election.

(8) Where the returning officer or his revision assistant does not understand the language spoken by an applicant or where the applicant is deaf, the applicant has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the applicant and the answers, but in the event of inability to secure an interpreter, the application may for the time being, be refused.

Interpreter where necessary

(9) The returning officer shall, on request made to him, provide to each candidate of a registered party a list of persons to whom a certificate to vote has been issued up to the time the request is made.

List of persons issued certificate

(10) A person added to the polling list under section 22 or 24 must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Certificate to be presented

(11) A person whose name appears in a list of electors and who wishes to have the entry related to him deleted, must appear before the returning officer and complete a declaration to that effect.

Deletion of name from list

ADDITIONS

22.—(1) Up to and including the day immediately preceding polling day, for the purpose of obtaining a certificate to vote, an elector whose name does not appear in the list of electors may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf and by statutory declaration substantiate his identity and qualifications as an elector.

Application for certificate to vote

(2) An elector acting on behalf of another under subsection (1) may do so for his child, grandchild, brother, sister, parent, grandparent or spouse but may act for only one additional person and a person who is not an elector may act for only one elector.

For whom elector may act

CORRECTIONS

23.—(1) The returning officer or his assistant, as set out in section 21, shall consider all applications for correction of mistakes in names or addresses in the list of electors and upon satisfactory evidence being furnished to him may make the necessary corrections.

Corrections to list

(2) A mistake in the name or the address of an elector shown in the polling list is not a ground for questioning the

Mistake in name, etc.

eligibility to vote of the elector, provided that at the time of voting the elector takes the prescribed oath, if required to do so by the deputy returning officer.

TRANSFERS

Change of
residence

24.—(1) Up to and including the day immediately preceding polling day, an elector whose name appears on a polling list for the pending election and who has moved may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf to have his name included in the polling list for the polling division where he now resides.

Proxy voters,
election
officials

(2) Where an elector whose name appears on a polling list for the polling division where he resides and,

(a) has appointed a proxy voter whose name appears on a different list in the same electoral district; or

(b) has been appointed,

(i) to cast a proxy vote at a polling place other than his own but in the same electoral district, or

(ii) to act as a deputy returning officer, poll clerk or scrutineer at a polling place other than his own but in the same electoral district,

an application may be made to the revising official for a certificate to vote at the other polling place.

Notice of
transfers

(3) The revising official whenever possible, shall advise the returning officer of the original electoral district, if applicable, or the deputy returning officer of the original polling place of any transfer made.

POLLING LISTS

Official
polling
list

25.—(1) The returning officer shall prepare the official polling list for each polling division by attaching to a copy of the original list of electors, a copy of any additional lists of electors prepared under his direction.

Copy to
D.R.O.'s

(2) The returning officer shall certify and supply a copy of the official polling list to each deputy returning officer for use at the advance polls and on regular polling day.

CANDIDATES

26.—(1) Every person is qualified to be a candidate who, Who may be candidate
at the time of signing the consent to nomination,

- (a) is of voting age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day; and
- (d) is not disqualified by the *Legislative Assembly Act* R.S.O. 1980, c. 235 or by any other Act.

(2) Clauses (1) (b) and (c) are repealed and the following Re-enactment of (1) (b,c)
substituted therefor:

- (b) is a Canadian citizen;
- (c) has resided in Ontario for the six months next preceding polling day.

(3) Subsection (2) does not come into force until the 1st Effective date of re-enactment
day of July, 1986.

(4) No person who has been engaged as a returning officer, Who may not be candidate
election clerk, enumerator or revision assistant at the revision of any list of electors to be used at the election, is eligible as a candidate.

(5) No person who has been found guilty within eight years Idem
of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election.

(6) A candidate may undertake any of the duties that his Right of candidate to undertake duties of scrutineer
scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act.

CLOSE OF NOMINATIONS

27.—(1) The close of nominations of candidates shall be 2 Time for close of nominations
p.m. of the day stated as such in the writ of election.

(2) One hour before the close of nominations, the returning Procedure on nomination day
officer shall make or cause to be made a pronouncement in the prescribed form and shall read or cause to be read publicly the writ of election.

Separate nomination papers, etc.

(3) A candidate may be nominated in one electoral district only and each candidate shall be nominated by a separate nomination paper which shall include or be accompanied by his consent in writing to the nomination.

Contents of nomination papers

(4) The nomination paper of a candidate shall state his name and address of residence and shall be signed by, or accompanied by the signatures of at least twenty-five electors of the electoral district and an elector may sign the nomination papers of more than one candidate.

Deposit

(5) A deposit of \$200 in cash or by certified cheque made payable to the Chief Election Officer shall be handed to the returning officer at the time the nomination paper is filed.

Refund

(6) Where a candidate receives at least 10 per cent of the valid ballots cast at the election, the deposit under subsection (5) shall, in the case of a cash deposit, be refunded to the candidate and, in the case of a certified cheque, be refunded to the issuer of the cheque.

How name to be shown on ballot

(7) Subject to subsection (8) and to subsections 34 (2) and (5), at the time of filing his nomination papers, a candidate shall state in writing to the returning officer how he wishes his name to be shown on the ballot.

Similarity of names

(8) Where the given names and surname requested to be shown on the ballot are identical or so nearly identical so as to create the possibility of confusion with the names requested to be shown on the ballot by another candidate whose nomination paper has already been submitted or certified, the returning officer shall immediately communicate the facts to the candidates and to the Chief Election Officer who shall consult with the candidates in question and resolve how each name is to be shown on the ballot, and the Chief Election Officer shall before 2 p.m. on the day following the day set for the close of nominations advise the returning officer how the names are to be shown on the ballot.

Registration under R.S.O. 1980, c. 134

(9) The nomination paper shall include or be accompanied by either a statement by the candidate that he has filed, or an undertaking by the candidate that, prior to polling day, he will file an application for registration with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*.

When nomination papers to be filed

(10) The nomination paper shall be filed with the returning officer at his office at any time during the seven days immediately preceding closing day or at any time up to the close of nominations on that day.

(11) Where the nomination paper is filed with the returning officer during the seven days immediately preceding, or not later than 11 a.m. of the closing day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Certificate
of R.O. as
to
regularity

(12) Where the nomination paper is filed with the returning officer after 11 a.m. of the closing day and before the time fixed for the close of nominations,

Nomination
paper

(a) the returning officer shall accept and examine the nomination papers; and

acceptance

(b) if on examination of the nomination paper it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the candidate and to the Chief Election Officer but shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day following, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

rejection

(13) It is not necessary for a candidate to be present when his nomination paper is filed with the returning officer.

Candidate
need not
be present

(14) The returning officer shall issue a receipt for any nomination paper accepted by him under subsections (11) and (12).

Receipt

28. If, at the close of nominations, only one candidate has filed a nomination paper, the returning officer shall close the election and declare such candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80.

Election by
acclamation

NOTICE OF POLL

29.—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes.

Grant of
poll

(2) The returning officer shall cause the prescribed notice of poll to be printed and the notice shall be posted in conspicuous public places in the electoral district and at least one copy shall be posted at each polling place on the days of the advance poll and the general poll.

Notice of
grant of
polls

WITHDRAWAL OF CANDIDATE

Withdrawal
of candidate
after
nomination

30.—(1) A candidate may withdraw at any time between filing his nomination paper and polling day by delivering to the returning officer the prescribed notice of withdrawal signed by himself in the presence of a subscribing witness.

Idem

(2) In the case of a candidate withdrawing after the close of nominations his deposit is forfeited and,

- (a) if there remains but one candidate, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80; or
- (b) if there remains two or more candidates and only if the ballots have been printed, the returning officer, if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted in a conspicuous place in every polling place in the electoral district, and any ballots cast for such candidate who has so withdrawn are void and shall be considered as rejected ballots.

DEATH OF CANDIDATE

Death of
candidate

31.—(1) If a candidate dies after being nominated and before the close of the poll, the returning officer shall suspend the election and the Chief Election Officer shall fix new days for the nomination of candidates and for polling in that electoral district but any certified nominations may, at the option of the candidate nominated, remain valid.

Return of
deposit on
death of
candidate

(2) The deposit of a candidate who dies before the close of the poll shall be returned to the personal representative of the candidate.

SCRUTINEERS

Appointment
of scrutineer

32.—(1) A candidate or a person designated in writing by him, which designation is filed with the returning officer, may appoint any person at least sixteen years of age to be a scrutineer for the candidate and to be present at any place at which a scrutineer may attend under this Act.

When
scrutineer
may not
challenge

(2) A scrutineer who is not an elector may not challenge the right to vote of any elector at a polling place.

(3) Not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll is open, and at the counting of the votes. Number of scrutineers in polling place

(4) Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. Non-attendance of scrutineers

BALLOT PAPER

33.—(1) The paper used for printing the ballots shall be as approved and ordered by the Chief Election Officer and shall be manufactured to contain a special thread or watermark so placed as to run through each ballot. Ballot paper

(2) The manufacturer of the paper shall make a declaration that none of the paper so manufactured will be supplied to any person other than the Chief Election Officer and upon delivery of the paper the Chief Election Officer shall cause the number of sheets received to be counted and a receipt issued to the manufacturer. Declaration by manufacturer

(3) The ballot paper shall be kept under lock and key in the custody of the Chief Election Officer. Custody of ballot paper

BALLOTS

34.—(1) All ballots shall be of the same description and as nearly alike as possible. Uniformity

(2) The names of the candidates shall be shown in capital letters on the ballot in order of their legal surnames, and, subject to subsection 27 (8), alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name, and at his request any sobriquet or an abbreviation or familiar form of a given name may be used in lieu of a candidate's legal given name or names. Form of ballot

(3) A circular space shall be shown on the ballot horizontally aligned with each candidate's name. Idem

(4) The circular spaces, numbers, names of the candidates and any other information required under subsection 27 (8) shall be the natural colour of the ballot paper and the remainder of the face of the ballot shall be black. Idem

Idem

(5) Subject to subsection 27 (8), there shall not be included with any candidate's name on the ballot any occupation, title, honour, decoration, degree, brackets or quotation marks.

Numbering of ballots

(6) The ballots shall be numbered consecutively on the stubs and shall be stapled or stitched into units as determined by the returning officer.

Printing of ballots

35.—(1) The Chief Election Officer or the returning officer shall cause to be printed on the approved paper a sufficient number of ballots for the election in the electoral district.

Printer's name, etc.

(2) The ballots shall bear upon the back the name of the electoral district, the date of polling and the name of the printer, and the printer shall provide to the returning officer the prescribed affidavit as to the number of sheets of ballot paper received and the disposition thereof including the total number of ballots printed and delivered to the returning officer.

Count of ballots and affidavit

(3) The returning officer shall immediately make a count of the ballots received from the printer and shall take the prescribed affidavit and forward it to the Chief Election Officer along with the affidavit referred to in subsection (2).

Supply to D.R.O.

36.—(1) The returning officer shall supply each deputy returning officer before the polling day with a ballot box, a certified copy of the polling list, the materials provided by the Chief Election Officer necessary for the proper conduct of the poll and a sufficient number of ballots for the electors at the polling place.

Record of quantity of ballots provided

(2) The returning officer shall specify in writing to each deputy returning officer the quantity of ballots provided and record their serial numbers and the record shall be forwarded to the Chief Election Officer with the other documents required to be forwarded at the close of the election.

Count of ballots by D.R.O.

(3) The deputy returning officer shall count and verify the quantity of ballots received from the returning officer and at the close of the poll forward a statement of such count to the returning officer along with the other poll documents and election material to be so forwarded.

BALLOT BOXES

Ballot boxes to be supplied

37.—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

(2) Every ballot box shall be so constructed and sealed that on polling day the ballots can be deposited therein but cannot be withdrawn without unlawfully unsealing the box or without evidence remaining of such tampering.

How made

VOTING SCREENS

38.—(1) The returning officer shall furnish each deputy returning officer with at least two voting screens.

Voting screens to be furnished

(2) The deputy returning officer shall ensure that the voting screens at the polling place are positioned so that electors may mark their ballots with maximum privacy and without other persons being able to see how they are marked.

Privacy when marking ballots

(3) Except as provided by sections 14 and 55, not more than one elector shall be permitted to use a voting screen at any one time.

One elector only at a time

POLL OFFICIALS

39.—(1) At least seven days before polling day, lists of names of electors in the electoral district who are not candidates may be furnished to the returning officer,

Nomination of D.R.O. and poll clerk

- (a) as potential deputy returning officers, by the candidate of the registered party represented by the government of the day; and
- (b) as potential poll clerks, by the candidate of a different political interest, the candidate for which at the next preceding provincial election received the highest number of votes or the next highest number of votes, as the case may be.

(2) From the lists furnished to him as provided by subsection (1), the returning officer shall select and appoint a deputy returning officer and a poll clerk for each polling place so that they represent two different political interests.

Appointment of D.R.O. and poll clerk

(3) If sufficient names from which to select and make the appointment of the poll officials have not been received, the returning officer shall make such appointments as are necessary.

Insufficient nominations

(4) Deputy returning officers and poll clerks before acting shall take the prescribed oath and their appointment shall be endorsed upon or attached to the poll record.

Oath

Duties of
poll clerk

(5) As directed by the deputy returning officer, the poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Forfeiture
of right to
payment

(6) Deputy returning officers or poll clerks who neglect, omit or refuse to perform any of their duties under this Act may forfeit their right to payment for any service already rendered.

Death or
absence of
D.R.O.

(7) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking a new oath.

TIME OF GENERAL POLL

Hours of
polling
generally

40.—(1) Except as provided by subsections (2), (3) and (4), the general polls at every election to the Assembly shall open at 9 a.m. and close at 8 p.m. of the same day.

In Central
Time Zone

(2) In an electoral district that lies entirely west of the meridian of 90° W. longitude the general polls shall open at 8 a.m. and close at 7 p.m. of the same day.

C.E.O. may
establish
different
hours

(3) The Chief Election Officer may at his discretion establish any period of eleven consecutive hours on the general polling day for voting in an electoral district or part thereof.

When
voting not
commenced
or
interrupted

(4) If for any reason, voting at a polling place is not commenced at the proper time or is interrupted during the polling hours, the Chief Election Officer shall be advised by the returning officer and at his discretion, the Chief Election Officer shall,

- (a) extend the closing time; or
- (b) resume the polling on the following day at 9 a.m. and continue the same from day to day if necessary, until the poll has been open with free access to the electors for eleven hours in total.

PRESERVATION OF THE PEACE

Assistance
by justices
and police
officers

41. A returning officer or deputy returning officer may require the assistance of justices of the peace, police officers and other persons to aid him in maintaining peace and order at the election and may appoint as many such other persons as he considers necessary.

SECRECY OF PROCEEDINGS

42.—(1) In addition to any elector or electors in the process of voting, except as provided by sections 4, 7, 14, 44 and 55, the only persons permitted to remain in a polling place during the time the poll remains open and at the counting of the ballots are the deputy returning officer, the poll clerk, the candidates and not more than one scrutineer for each candidate at any one time.

Who may be in polling places

(2) Every deputy returning officer, poll clerk, candidate or scrutineer authorized to attend at a polling place shall take an oath of secrecy.

Oath of secrecy

(3) No person shall attempt to obtain at a polling place information as to the candidate for whom an elector is about to vote or interfere or attempt to interfere with an elector in a polling place.

Interference with electors

(4) Subject to sections 14 and 55, an elector shall not display his ballot to any person so as to indicate how he has voted.

Elector not to display ballot

(5) No person shall, directly or indirectly, induce or attempt to induce an elector to display his ballot to any person so as to indicate how he has voted.

Inducing elector to display ballot

(6) No person shall communicate any information obtained at a polling place as to the candidate for whom an elector is about to vote or has voted or whether he declined to vote.

Communicating information as to how elector is voting

(7) In any legal proceedings no person may be compelled to state for whom he voted or whether he marked his ballot or not.

No person compellable to disclose his vote

VOTING AT ONE PLACE ONLY

43. If the name of a person entitled to vote is entered on the polling list for more than one polling division he shall nevertheless vote only at one polling place.

Person to vote in one division only

ADVANCE POLLS

44.—(1) For the purpose of receiving the votes of electors who expect to be unable to vote on polling day in the electoral district for which their names appear on the polling list or on certificates to vote, advance polls shall be open,

Advance polls

- (a) in an office of the returning officer, provided that the ballots have been printed, on the 12th, 10th, 9th, 8th, 6th and 2nd day preceding polling day; and
- (b) at designated other locations on the Thursday, Saturday and Monday immediately preceding polling day.

Advance
polling
places

(2) The returning officer shall provide as many advance polling places under clause (1) (b) as are approved by the Chief Election Officer and shall select locations which give access to wheelchairs.

Time of
poll

(3) The advance polls in an electoral district shall be open from 11 a.m. to 8 p.m. or during such hours as are determined by the Chief Election Officer.

Notice
of polls

(4) At least three days prior to the first advance poll day under clause (1) (a), the returning officer shall cause a notice of the days, times and locations of the advance polls to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

List of
electors who
have voted

45.—(1) Forthwith after the close of the poll each day, the deputy returning officer shall provide to the returning officer a list of the names, addresses and polling division numbers of all electors who have voted or forfeited their right to vote and the returning officer before polling day shall furnish every candidate in the electoral district with a copy of such list.

Noting other
D.R.O. lists

(2) The returning officer shall indicate in the polling list to be supplied to each deputy returning officer for polling day the name of each elector who at the advance poll has voted or forfeited his right to vote.

Candidates
and
scrutineers

(3) Candidates or their scrutineers are not entitled to be present when votes are cast at an advance poll held in the office of a returning officer.

Counting
of ballots

(4) On the general polling day, the deputy returning officer and the poll clerk shall, at the hour fixed for the closing of the general poll, and in the presence of such of the candidates or their scrutineers as are present, proceed to count the ballots cast.

Application

(5) Except as in this section otherwise provided, the provisions of this Act relating to secrecy of proceedings, voting procedures, counting of the ballots and the reporting of the results apply with necessary modifications to voting under this section.

(6) The vouching provisions of section 51 do not apply at an advance poll.

Vouching not to apply at advance poll

PROCEDURE AT THE POLL

46.—(1) The deputy returning officer and poll clerk shall attend at the polling place at least thirty minutes before the hour fixed for opening the poll.

Attendance of D.R.O. and poll clerk at polling place

(2) Any scrutineers present during the fifteen minutes before the opening of the poll are entitled to have the ballots counted in their presence and to inspect all other materials relating to the poll.

Counting ballots at opening of poll

(3) The deputy returning officer immediately before opening the poll shall show the empty ballot box to any persons present and shall then seal the box as prescribed by the Chief Election Officer in such manner as to prevent its being opened without breaking the seals.

D.R.O. to show box empty, then seal it

(4) Except as provided in subsection 14 (2) and subsection (5) of this section, the deputy returning officer shall then place and keep the ballot box on a desk, counter or table or otherwise position it above floor level in full view of all present and shall keep it sealed until the close of the poll.

Placement of ballot box

(5) The ballot box may be moved by the poll officials to facilitate voting by an elderly or disabled elector but where the box is so moved it may be accompanied by any scrutineer present and a record of any such action and any objection taken by a scrutineer shall be made in the poll record opposite the name of the elector.

When ballot box may be moved

47.—(1) Every elector upon entering the room or area where the poll is being held shall state his name and place of residence to the deputy returning officer, which particulars shall be entered in the poll record by the poll clerk.

Statement of name, etc., by elector

(2) Every elector who is entitled to vote shall receive from the deputy returning officer a folded ballot on the back of which the deputy returning officer has previously put his initials, so placed that when the ballot is refolded they can still be seen and upon the request of the elector, the deputy returning officer shall instruct the elector in the manner of marking and how to refold the ballot.

D.R.O. to initial back of ballot

(3) If a deputy returning officer has reason to believe that a person offering to vote is not an elector or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon

Where oath may be required

the list, or when requested by a candidate or a scrutineer who is an elector, the deputy returning officer shall administer the prescribed oath to the elector.

Where elector alleges he has been personated

(4) If a person representing himself to be an elector applies for a ballot after another person has voted as such elector, he is entitled to receive a ballot after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer, and a note shall be made in the poll record to that effect and of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates.

Elector refusing to take oath

(5) An elector who has refused to take an oath when required so to do forfeits his right to vote.

Entry to be made in poll record

(6) The poll clerk shall indicate in the poll record opposite the name of each elector, as applicable, if an oath was administered or refused.

MARKING A BALLOT

Mode of marking ballot

48.—(1) The elector on receiving a ballot shall forthwith proceed to one of the voting screens and there, using a pencil or pen indicate the candidate of his choice by marking one of the circular spaces on the ballot with a cross or other mark in any colour.

Mode of folding and depositing ballot

(2) The elector shall then refold his ballot so that the initials on the back are visible and hand it to the deputy returning officer who shall without unfolding it ascertain by examining his initials that it is the same ballot issued to the elector and shall then, in full view of all present, including the elector, place it in the ballot box, and thereupon the poll clerk shall indicate in the poll record that the elector has voted.

Elector to leave polling place after voting

(3) An elector whose ballot has been placed in the ballot box shall be deemed to have voted and shall forthwith leave the polling place.

CERTIFICATE OF ERROR

Certificate of error

49. The returning officer may certify for addition to the polling list, the name of any elector omitted in error,

- (a) upon the elector producing to the returning officer or to the deputy returning officer proof of enumeration; or

- (b) upon the returning officer being satisfied that such person was enumerated or was added at the revision,

and the returning officer shall furnish each candidate with a list of such certifications.

VOTING CERTIFICATES

50.—(1) An elector voting under the authority of a certificate issued by the returning officer or revision assistant shall surrender it to the deputy returning officer at the polling place before receiving a ballot.

Surrender of certificate

(2) The deputy returning officer or poll clerk shall record in the poll record, opposite the name of the elector, the words "voted under certificate" and shall file the certificate in the envelope of election documents to be returned to the returning officer.

Entry in poll record

VOUCHING

51.—(1) In a rural polling division, other than at an advance poll, an elector whose name was omitted from the polling list, may apply to the deputy returning officer to have his name added to the list and his name shall be added,

Where elector's name omitted in rural polling division

- (a) if he takes the prescribed oath as to his eligibility to vote; and
- (b) if he is accompanied by an elector who is a resident in the same polling division and whose name is on the polling list and who vouches on oath that,
- (i) he knows the person whose name has been omitted, and
- (ii) he believes such person to be qualified to be entered on the list.

(2) An elector vouching, as provided by subsection (1), may do so for more than one elector.

May vouch for more than one elector

(3) The deputy returning officer after taking the prescribed oath shall cause the applicant's name to be added to the polling list and entered in the poll record with the words "vouched for" written thereafter.

Name to be added to list

(4) The applicant, upon taking the oath and being vouched for, is entitled to vote.

Right to vote

BALLOT TAKEN FROM POLL

Elector not
to take
ballot from
polling
place

52. An elector who has received a ballot shall not take it out of the polling place and any elector who leaves without delivering the ballot to the deputy returning officer forfeits his right to vote and the deputy returning officer shall cause an entry to be made in the poll record that the elector took his ballot out of the polling place.

DECLINED BALLOT

Declined
ballot

53. An elector who has received a ballot and returns it to the deputy returning officer declining to vote, forfeits his right to vote and the deputy returning officer shall immediately write the word "declined" upon the back of the ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record that the elector declined to vote.

CANCELLED BALLOT

When ballot
may be
replaced

54. A ballot that,

- (a) has been improperly printed;
- (b) has been inadvertently dealt with in such manner that it cannot be used; or
- (c) has been issued to an elector who has marked it other than how he intended to mark it or for any reason objects to it and returns it to the deputy returning officer requesting another,

may be replaced with another ballot by the deputy returning officer who shall immediately write the word "cancelled" upon the back of the first ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record stating the reason for cancelling the ballot.

DISABLED ELECTORS

Disabled
elector

55.—(1) On the application of any elector who is unable to read or who is disabled and thereby prevented from voting in accordance with the other provisions of this Act, the deputy returning officer may assist the elector to the voting screen or if the elector making the application takes an oath as to his inability to vote without assistance, shall thereafter assist the elector at the voting screen by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of such elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the elector to the voting screen and there mark the elector's ballot for him.

Ballot
marked by
friend

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot was marked.

Declaration
to be made
by friend

(4) No person shall be allowed to act as the friend of more than one elector mentioned in subsection (1) at any polling place, other than a polling place established under section 14.

May act as
friend
once only

(5) The deputy returning officer shall enter in the poll record opposite the elector's name the reason why the ballot was marked by him or by a friend of the elector.

Entry in
poll record

INTERPRETER AT THE POLL

56. Where neither the deputy returning officer nor the poll clerk understands the language spoken by an elector or where the elector is deaf, the elector has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the elector and the answers, but in the event of inability to secure an interpreter, the elector shall, for the time being, be refused a ballot.

When
language
spoken by
elector not
understood

COUNTING THE BALLOTS

57.—(1) Immediately after the close of the poll, the deputy returning officer shall count the number of electors who appear by the poll record to have voted and on such record shall enter that number and draw a bold double line immediately below the name of the elector who voted last, and shall sign his name thereto, then, in the presence and in full view of the persons entitled to be present, as set out under subsection 42 (1), he shall open the ballot box and proceed to count the number of valid ballots cast for each candidate and all other ballots therein giving full opportunity to those present to see each ballot and observe the procedure.

Duties of
D.R.O. at
close of
poll

(2) Only a ballot which was supplied to the elector by the deputy returning officer and with only one of the circular spaces marked and upon which there is no writing or mark by which the voter can be identified shall be accepted as a valid ballot at the count.

What may be
accepted as
valid ballot

Where ballot not to be rejected

(3) No word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

Objections to be noted

(4) The deputy returning officer shall make a note in the poll record of every objection taken to a ballot by a candidate or scrutineer and shall decide the objection, subject to review as hereinafter provided.

Numbered and initialled

(5) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer.

How ballots to be counted

58.—(1) All accepted ballots indicating the votes given for each candidate respectively and all unmarked, rejected, cancelled, declined and unissued ballots shall be counted and sealed in separate envelopes by the deputy returning officer and the stubs of any ballots issued shall be included in the envelope with the unissued ballots.

Candidates and scrutineers may sign envelope

(2) Any candidates or scrutineers present may write their signatures across the flap of any envelope containing ballots and may also affix their seals.

STATEMENT OF THE POLL

Statement to be made by D.R.O.

59.—(1) The deputy returning officer shall complete a prescribed statement of the poll, accounting for all the ballots supplied to him by the returning officer, and the statement shall be signed by the deputy returning officer and poll clerk and may be signed by any candidate or scrutineer present.

Disposition of statements

- (2) The deputy returning officer shall ensure that,
 - (a) one part of the statement is enclosed in a special envelope supplied for the purpose of the official tabulation;
 - (b) one part is placed in or attached to the poll record; and
 - (c) one part is retained by him.

CERTIFICATE OF COUNT

Certificate of result of poll

60. The deputy returning officer shall complete a prescribed certificate of the number of ballots cast for each candidate and of the number of rejected and unmarked ballots and shall provide a copy of the certificate for each candidate to the scrutineer present and in the case where no candidate or scru-

tineer is present the certificates shall be forwarded to the returning officer in the poll return envelope.

FINAL POLL PROCEDURE

61. The deputy returning officer and the poll clerk shall ensure that the poll record, polling list, ballot envelopes and all other documents collected or used at the polling place are placed in the poll return envelope and shall each take the prescribed oath that their duties have been completed.

Polling list, etc., to be placed in poll return envelope

62.—(1) The deputy returning officer shall then personally deliver the sealed poll return envelope along with the sealed official tabulation envelope to the returning officer or both envelopes shall be delivered by the poll clerk or by some other person chosen as special messenger by the returning officer or the deputy returning officer who shall write on the envelopes the name of the person to whom they were entrusted and shall take a receipt therefor.

Delivery of poll return envelope to R.O.

(2) Any candidate or scrutineer present may affix his seal or write his signature across the flap of the sealed poll return envelope or the sealed official tabulation envelope.

Candidate or scrutineer may affix seal

(3) In lieu of proceedings under subsection (1), the deputy returning officer, with the approval of the returning officer, may seal the official tabulation envelope inside of the poll return envelope and forward it by registered mail to the returning officer.

Registered mail

(4) The poll clerk or other person authorized to personally deliver the envelopes to the returning officer shall do so forthwith and shall take before him the prescribed oath and any candidate or scrutineer is entitled to be present when the envelopes are so delivered to the returning officer.

Delivery to be forthwith

RECEIPT OF POLL RETURN ENVELOPE BY RETURNING OFFICER

63. Immediately on the receipt of a poll return envelope, without effacing or covering any seals already affixed to it, the returning officer shall affix a seal prescribed by the Chief Election Officer in such a way that the envelope cannot be opened without the seal being broken and shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it.

R.O. to seal poll return envelope

OFFICIAL TABULATION

Conduct of
official
tabulation
by R.O.

64.—(1) The returning officer, at the place, day and hour stated in his notice of poll shall, in the presence of the election clerk and any candidate or candidate's delegate or scrutineer present, conduct the official tabulation by adding up the votes given for each candidate as taken from the official statements of the poll contained in the special envelopes returned to him or from such other sources as may be available to him but without opening any of the sealed envelopes containing ballots.

Adjournment
of official
tabulation

(2) The returning officer may adjourn the official tabulation proceedings to a future day and hour and so on from time to time but not in the aggregate to exceed fourteen days,

- (a) if any of the poll return envelopes or official tabulation envelopes have not been returned by the day fixed for the official tabulation;
- (b) if any deputy returning officer has not enclosed in the envelopes referred to in clause (a) the official statement of the ballots counted by him as required by this Act; or
- (c) if for any cause the returning officer cannot ascertain the number of votes given for each candidate.

Procedure
when poll
envelopes
lost,
statements
not available,
etc.

65. If, on the fifteenth day after the day fixed for the official tabulation,

- (a) any of the poll return envelopes are known to be lost or destroyed or for any reason have not been received; or
- (b) any statements or certificates of the ballot count at any polling places are not available and copies of them cannot be procured,

the returning officer shall ascertain, by such evidence or documents verified by declaration as he is able to obtain, the total number of votes given for each candidate at the several polling places and may summon any poll official, scrutineer or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents and the returning officer shall notify the candidates of the intended proceedings and may examine any person so summoned respecting the matter in question.

66.—(1) At the close of the official tabulation, or hearings in the case of missing envelopes or statements, the returning officer shall forthwith declare to be elected the candidate having the largest number of votes. Declaration of result

(2) If an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared to be elected, the returning officer shall give the casting vote. Casting vote

EFFECT OF IRREGULARITIES

67. No election shall be declared invalid, Irregularities not affecting result

(a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;

(b) by reason of a failure to hold a poll at any place appointed for holding a poll;

(c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the ballots or as to limitations of time; or

(d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the outcome of the election.

RECOUNT

68. Notice in writing of an application to be made under subsection 70 (1) shall be given forthwith by the applicant personally or sent by registered mail to the Chief Election Officer, the returning officer and election clerk, and each candidate in the electoral district. Notice

69.—(1) In this section and in sections 70 to 80, unless otherwise stated, “judge” means the judge of the county court of the county or of the district court of the provisional judicial district in which the electoral district or any part of it is situate and, where there are two or more judges, the senior judge or, in the case of illness or absence of the senior judge or where the senior judge requests him to act, another judge of the court. Interpretation

What judge to hold recount when district in two or more counties

(2) Where the electoral district comprises parts of two or more counties or provisional judicial districts any application shall be to and the recount shall take place before the judge of the court of the county or provisional judicial district having the larger or largest population according to the last federal census.

Where recount may be had

70.—(1) For the purpose of determining the candidate who obtained the highest number of votes and within the four days, Sunday being excluded, following the official tabulation made by the returning officer, a judge may appoint a time and place to recount the votes cast at the election in the electoral district upon the application of a candidate or elector if it is made to appear by affidavit that,

- (a) a deputy returning officer has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) the returning officer has improperly tabulated the votes.

Security for costs

(2) An application under subsection (1) shall be accompanied by a receipt showing that there has been deposited with the clerk of the county or district court, as security for costs in connection with the recount, the sum of \$200 or money order or cheque in that amount drawn upon and accepted by a chartered bank or trust company doing business in Ontario.

Notice

71. Where an application for a recount is refused by the judge, notice of such refusal shall be given forthwith by the clerk of the court to those persons mentioned in section 68.

Notice of time and place of recount

72.—(1) At least two days notice in writing of the time and place appointed for the recount by the judge shall be given forthwith by the clerk of the court to those persons mentioned in section 68 in such manner as the judge directs.

Presence of clerk of court

(2) The judge may require the clerk of the county or district court to be present at the time and place appointed.

Who to be present at recount

(3) The returning officer and the election clerk shall be present at the recount and each candidate is entitled to be present and to be represented by counsel and to have present and be represented by such scrutineers as are permitted by the judge, and except by such permission no other person shall be present.

(4) The returning officer and the election clerk shall attend at the recount with all the poll return envelopes received from the deputy returning officers and the original statements of the poll which shall continue in the custody of the returning officer and he is responsible for them subject to any direction given by the judge.

Documents to be produced at recount

(5) At the time and place appointed, the judge shall proceed to make the recount from the original statements of the poll or have opened the sealed envelopes containing,

Procedure by judge

- (a) the ballots that have been counted for each candidate;
- (b) the ballots rejected as to marking; and
- (c) the ballots unmarked by any voters,

and may have opened the sealed envelopes containing,

- (d) the cancelled ballots;
- (e) the declined ballots; and
- (f) the unissued ballots.

73. The judge shall conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll.

Rules to govern judge at recount

74.—(1) If any person requests him to do so, the judge shall write the poll number on the back of and initial any disputed ballots and seal them in a separate envelope.

Distinguishing disputed ballots

(2) Upon the completion of the recount, except as provided by subsection (1), the judge shall have sealed up all the ballots in their original envelopes and all the original statements in a separate envelope clearly marked as to its contents.

Sealing up ballots at close of recount

75.—(1) Where a poll return envelope used at a polling place was not available to the returning officer when he made his decision in respect of the number of votes given for a candidate or where the proper statement was not found in the official tabulation envelope, the judge shall, if necessary or required, review the decision of the returning officer.

Review of decision of R.O. when documents missing

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the atten-

Powers of judge

dance and examination of witnesses or he may act upon the evidence taken by the returning officer.

When judge
to certify
result of
recount

76.—(1) The judge shall certify in writing to the returning officer the result of the recount unless, during the two days following completion of his recount, Sunday being excluded, the judge receives a notice of appeal as provided in section 79.

Declaration
of result

(2) Upon receipt of the judge's certificate, the returning officer shall then declare the candidate having the largest number of votes to be elected but in the case of an equality of votes, the returning officer shall give the casting vote.

Costs

77.—(1) The costs of the recount, including the costs of the returning officer and the election clerk, are in the discretion of the judge who may, subject to subsection (3), order by whom, to whom, and in what manner they shall be paid.

Taxing and
allowing
costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs in respect of proceedings in the Supreme Court.

Where judge
makes no
provision
re costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Deposits,
disposal of

78. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the court of the county or judicial district upon the judge's order for the balance.

APPEAL FROM DECISION ON RECOUNT

Appeal from
decision of
judge

79.—(1) Any party may appeal from the decision of the judge who conducted the recount by giving notice in writing within two days after the completion of the recount to the other parties concerned and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of
notice of
appeal

(2) The notice may be served upon the other parties personally, or upon the solicitor who acted for him upon the recount by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

Ballots, etc.,
to be
forwarded
to Registrar
of Supreme
Court

(3) Where the appeal is limited, the judge who conducted the recount shall forward, in the envelope as provided for in subsection 74 (1), the ballots that are the subject of appeal

together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

(4) The judge who conducted the recount shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar. Allowing copy of certificate of judge

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing of appeal

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his decision to the judge who conducted the recount, whose duty it is to conform to the decision and to certify the result without delay to the returning officer. Procedure on hearing of appeal, certificate of result

(7) The judge of the Supreme Court may direct by whom and to whom the cost of the appeal, including the costs of the returning officer and the election clerk, shall be paid. Costs of appeal

(8) The judge of the Supreme Court shall tax the costs of the appeal. Taxing and allowing costs

(9) Where the judge of the Supreme Court makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. Idem

ELECTION RETURN

80.—(1) If a candidate has been declared elected by the returning officer as provided by section 28 or 30, or if the returning officer has received from a judge the certificate of the result of a recount or if by the seventh day following the completion of the official tabulation the returning officer, When return to be made

- (a) has not received notice to attend before a judge for a recount; or
- (b) has received notice from a judge that a recount has been refused,

the returning officer shall send by registered mail, the writ with his dated and signed return to the Chief Election Officer that a candidate has been elected by acclamation or that the candidate having the largest number of votes has been duly elected and shall forward a copy of his return to each candidate.

Report
by R.O.

(2) The returning officer shall include with his return to the Chief Election Officer a report of the proceedings at the official tabulation making any observations he thinks proper as to the state of the poll return envelopes or the want of any statement of the ballots counted and the mode by which he ascertained the votes given for each candidate under section 65, if applicable.

Declaration
by R.O.

(3) The returning officer shall forthwith make the prescribed affidavit after sending his return, and it shall be sent forthwith to the Chief Election Officer.

Application
to compel
R.O. to add
up votes,
make return,
etc.

81.—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

R.S.O. 1980,
c. 224

and the person aggrieved or the Chief Election Officer or any elector applies under the *Judicial Review Procedure Act* for an order commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

Application
of
R.S.O. 1980,
c. 223

(2) In other respects the *Judicature Act* and the rules of court made thereunder apply to such application.

Other rights
and remedies

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer.

Notice of
return in
*Ontario
Gazette*

82. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario*

Gazette, the date of such receipt and the name of the candidate elected.

DISPOSITION OF ELECTION DOCUMENTS AND MATERIAL

83.—(1) Forthwith after making his return, the returning officer shall arrange for shipment in the prescribed manner to the Chief Election Officer of all envelopes returned to him by the deputy returning officers, and all documents, papers, and materials in his possession relating to the conduct of the election but excluding those related to enumeration which shall be destroyed.

Shipment to C.E.O. of election documents

(2) The returning officer shall transmit all election material to the Chief Election Officer in boxes or packages marked "Used" or "Unused" and secured and sealed with the prescribed seals and the returning officer shall endorse on each box or package of used material a description of the contents, the date of the election and the name of the electoral district to which they relate.

Endorsement thereon

84.—(1) The Chief Election Officer shall retain in his possession the used documents transmitted to him by the returning officer under section 83 for at least one year, and if the election is contested, then for one year after the termination of the contestation.

How long to be retained

(2) If notice is served on the Chief Election Officer under subsection 98 (6) or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED".

When documents not to be destroyed

85.—(1) All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word.

Inspection of documents

(2) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

Inspection of ballots only under order of judge

(3) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of institut-

When order to be granted

ing or maintaining a prosecution for an offence in relation to ballots or for the purpose of an action questioning an election or return.

Conditions of order

(4) The order may be made subject to such conditions as the judge thinks proper.

Where inspection takes place

(5) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key.

Evidence as to documents, etc., in certain cases

86. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

Inspection of documents under order of committee of Assembly

87. Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto.

Report re conduct of election

88. The Chief Election Officer, in addition to any other requirements of this Act in respect of the tabling of the results of an election, shall report to the Assembly through the Speaker whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act.

CORRUPT PRACTICES AND OTHER OFFENCES: PENALTIES AND ENFORCEMENT

Voting when not qualified, etc.

89. Every person who, at an election,

(a) not being qualified to vote, votes; or

- (b) being qualified to vote, votes more than once; or
- (c) votes in an electoral district or polling division other than the one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

90. Every person who,

Improper
voting by
proxy, etc.

- (a) appoints a proxy for reward or remuneration;
- (b) induces or procures any elector by undue influence to appoint a voting proxy to vote at an election;
- (c) unduly solicits or attempts to solicit from an elector an appointment as a voting proxy to vote at an election;
- (d) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;
- (e) knowingly appoints more than one person as a voting proxy; or
- (f) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or had reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is no longer entitled to vote or is dead,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

91. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Wilful
miscount
of ballots

92. Every returning officer, election clerk, revision assistant, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this

Neglect
of duties

Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
relating to
ballot papers

93. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) without authority, places in a ballot box anything other than an official ballot;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or packet of ballots provided for use at, in use, or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (g) being authorized by the returning officer or Chief Election Officer to print the ballots for an election, prints more than he is authorized to print; or
- (h) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

94. Every person who knowingly furnishes false or misleading information to a returning officer or to any person who by this Act is authorized to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Inducing
unqualified
person to
vote, etc.

95. Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or

(b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

96. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

General offence

97.—(1) Where a candidate at an election is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election up to and including the next general election, or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council for five years following the date of the official return.

Disqualification of persons guilty of corrupt practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1).

Limitation

CONTESTED ELECTIONS

98.—(1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly or whether or not any person is guilty of a corrupt practice shall be tried and determined by an action commenced by issuing a writ in the Supreme Court.

Validity of election, determination by action

(2) Where the Supreme Court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 89 to 97.

Penalties for corrupt practice

(3) A candidate at an election or any elector qualified to vote at an election or the Chief Election Officer, if he considers that it is in the public interest that an action be commenced, may commence an action.

Who may commence action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election return, but this subsection does not apply to the Chief Election Officer who may commence an action under this section at any time.

Time for commencing action

Local registrar to notify Registrar

(5) Upon receipt of a writ of summons, the local registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

Registrar to notify C.E.O.

(6) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this section by anyone other than the Chief Election Officer.

C.E.O. to notify Assembly and returning officer

(7) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication of notice by returning officer

(8) The returning officer, after receipt of a notification under subsection (7), shall forthwith publish a notice thereof in the prescribed form once in a newspaper having general circulation in the electoral district.

Practice and procedure

99.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to an action commenced under section 98.

Judge without jury

(2) The action shall be tried by a judge without a jury.

Intervention in action by C.E.O.

100.—(1) The Chief Election Officer, following receipt of the notice under subsection 98 (6), may apply to a judge of the Supreme Court, or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Notice of application to be filed and served

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Where leave granted

(3) If the judge grants leave to intervene, he shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to subpoena witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action.

Security for costs

101.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the election officer incurred in the publication of notices in the

electoral district in respect of the writ of the action or proceedings therein.

(2) The security shall be in the amount of \$2,000 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. Idem

102. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under section 98 and an action may be commenced in the same manner as if the member elected had not disclaimed. Disclaimer not to affect action
R.S.O. 1980, c. 235

103.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs. Abatement of action

(2) The abatement of an action does not affect any liability for costs previously incurred. Liability for costs

(3) On the abatement of an action, notice of the abatement shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be substituted as the sole plaintiff. Substitution of plaintiff

104. Where a plaintiff is not qualified to be a plaintiff in an action under section 98, the action shall not on that account be dismissed if within such time as a judge of the Supreme Court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. Substitution for unqualified plaintiff

105.—(1) If, before or during the trial, Death of defendant, etc., at or before trial

- (a) the defendant dies; or
- (b) the Assembly resolves that the seat is vacant; or
- (c) the defendant gives notice to the court that he does not intend to oppose, or further oppose the action,

notice of such event shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district.

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be admitted as a defendant Substituted as further defendant

to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment
of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice
of intention
not to
oppose
given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly.

Declaration
that election
void

106.—(1) Where it is determined that the successful candidate is guilty of a corrupt practice, the court may declare his election void.

Unseating
and seating
of another
candidate

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person was elected, that he be admitted to take his seat in the Assembly or, if it is determined that no other person is elected, the court may provide for the holding of a new election.

Where result
of election
affected

(3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and provide for holding a new election.

Unseating of
disqualified
person

(4) Where it is determined that a person elected has become disqualified or has forfeited his seat, the court may order that he be removed from office and provide for the holding of a new election.

Where act or
omission
affects
result of
election

(5) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and provide for holding a new election.

Compensation
of candidate
where
election
void

(6) Where a new election is ordered, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$15,000 per candidate.

(7) The Registrar of the Supreme Court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly.

Judgment to
Legislative
Assembly

107.—(1) If the court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Where
election
set aside
and appeal
entered

(2) In the cases to which subsection (1) applies, where an appeal is entered, the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court.

Notice of
appeal to
Clerk

108. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal.

Time for
issue of
writ for
new
election

109.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

Appeals to
Court of
Appeal

(2) The Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court of Appeal as speedily as practicable.

Setting down
for hearing,
etc.

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment or
new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section.

Appeal from
decision on
new trial

110. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to

Inquiry as
to extensive
corrupt
practices

R.S.O. 1980,
c. 411

inquire into whether corrupt practices extensively prevailed at the election and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

ELECTION FEES AND EXPENSES

Regulations

111. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 77 and 79.

Payment of
expenses
of Act

112.—(1) The fees and expenses to be allowed to the election officers, returning officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Premises and
equipment

(2) The Chief Election Officer may lease such premises and acquire such equipment and supplies as are necessary to properly carry out his responsibilities under this Act.

Clerical and
technical
assistance

(3) The Chief Election Officer from time to time may appoint such persons having technical or special knowledge of any kind to assist the Chief Election Officer for a limited period of time, or in respect of a particular matter.

Accountable
warrants

(4) For the purpose of providing the funds required under this section, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts and
audit

(5) The sums paid out under this section shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant Governor in Council otherwise directs.

Audit by
Provincial
Auditor

(6) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor.

OFFICE OF THE CHIEF ELECTION OFFICER

113.—(1) Subject to the approval of the Board, the Chief Election Officer may employ such persons on his permanent staff as are necessary in the performance of his duties and for the efficient and proper operation of his office and may, for such employees, establish job classifications, and may determine the salary of the Assistant Chief Election Officer and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees on the permanent staff of his office and the Chief Election Officer shall present annually to the Board estimates of the sums of money that will be required for these purposes.

Staff

(2) The Board shall review and may alter as it considers proper the estimates referred to in subsection (1), and the chairman of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review.

Review of estimates by Board

(3) The moneys required for the purposes of this section shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

114.—(1) Every employee of the office of the Chief Election Officer, before performing any duty as such, shall take and subscribe the prescribed oath of office and secrecy and, if required by the Chief Election Officer, the prescribed oath of allegiance.

Oath of office and secrecy and oath of allegiance

(2) The Chief Election Officer may require any person appointed to assist the Chief Election Officer for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths referred to in subsection (1).

Idem

(3) A copy of each oath administered to an employee of the office of the Chief Election Officer under subsection (1) shall be kept in the file of the employee in the office of the Chief Election Officer.

Record of oaths

(4) The failure of an employee of the office of the Chief Election Officer to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal.

Cause for dismissal

Benefits

R.S.O. 1980,
c. 418

115.—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Chief Election Officer, the Assistant Chief Election Officer, and to the full-time permanent and probationary employees of the office of the Chief Election Officer and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Chief Election Officer or any person authorized in writing by the Chief Election Officer may exercise the powers and duties of a deputy minister under that Act in respect of such benefits.

Super-
annuation
benefitsR.S.O. 1980,
c. 419

(2) The *Public Service Superannuation Act* applies to the full-time permanent and probationary employees of the office of the Chief Election Officer as though the office of the Chief Election Officer were a commission designated by the Lieutenant Governor in Council under section 28 of that Act and to the Chief Election Officer and Assistant Chief Election Officer as though they were members of such a commission who held positions designated by and whose requests for such designations had been approved by the Lieutenant Governor in Council under section 28 of that Act and all credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the office of the Chief Election Officer and of the Chief Election Officer and the Assistant Chief Election Officer accumulated under that Act immediately before this Act comes into force are preserved and continued in accordance with that Act.

Conduct
and
discipline

116.—(1) The Chief Election Officer may make orders and rules for the conduct of the internal business of the office of the Chief Election Officer and, after a hearing, may suspend, demote or dismiss any employee of the office for cause.

Hearing

R.S.O. 1980,
c. 418

(2) The provisions of the *Public Service Act* and the regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Chief Election Officer is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an employee of the Office, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister.

Appeals

(3) A decision of the Chief Election Officer to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communi-

cated to him, to the Public Service Grievance Board established under the *Public Service Act*.

R.S.O. 1980,
c. 418

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Chief Election Officer and to the appellant.

Board
authorized
to hear
appeals

MISCELLANEOUS

117. Section 6 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. The persons qualified to sit and vote as members of the Assembly are any persons of the full age of eighteen years who are Canadian citizens resident in Ontario and not disqualified by this or any other Act from election to the Assembly.

Qualification
of members

118. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

119.—(1) This Act, except section 117, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 117 comes into force and has effect on the day after the day the Legislature is dissolved or ended by the effluxion of time, where the day of dissolution or ending falls after the 1st day of July, 1986.

Idem

120. The short title of this Act is the *Election Act, 1984*.

Short title

Bill 17

An Act to revise the Election Act

The Hon. T. L. Wells

Minister of Intergovernmental Affairs

1st Reading March 29th, 1984

2nd Reading December 4th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Members' Services Committee)

EXPLANATORY NOTES

The Bill is in substantially the form of Bill 153, introduced and given first reading only, in the last Session of the Legislature. Among the principal features of the Bill are the following:

1. Certain election terms have been changed to more accurately reflect the nature of the proceedings. Set out below is a Table showing the existing expression on the left and on the right the corresponding expression used in the Bill:

FROM	TO
Polling Subdivision	Polling Division
List of Voters	List of Electors
Voter (up to time of voting)	Elector
Assistant Revising Officer	Revision Assistant
Official Count	Official Tabulation

2. The position of official agent has been deleted in view of the provision in the *Election Finances Reform Act* requiring all candidates to appoint a chief financial officer.
3. Any references to time in the Act refer to the time that is in effect locally. (s. 2).
4. Polls will open at 9 a.m. and close at 8 p.m., except in the electoral districts of Kenora and Rainy River, where they will open at 8 a.m. and close at 7 p.m. Polls throughout Ontario will accordingly open and close simultaneously. (s. 40).
5. Employers are to allow polling officials appointed by the returning officer a leave of absence to perform their duties. (s. 6).
6. The minimum election period is thirty-seven days and the maximum is seventy-four days. (s. 9).
7. Effective July 1, 1986, British subjects who are not Canadian citizens will not qualify to vote at an election; on the same date, the present requirement of twelve months' residency in Ontario will be reduced to six months' residency. (s. 15).
8. Effective July 1, 1986, British subjects who are not Canadian citizens will not be qualified to be candidates; on the same date, the present requirement of twelve months' residency in Ontario will be reduced to six months' residency. (s. 26).
9. The prohibition against returning officers and election clerks voting is removed.
10. Provision is made for the establishment of polling places in psychiatric facilities. (s. 14).
11. The prohibition against judges voting is removed and removed also is the prohibition against mentally ill persons voting; persons who are inmates in correctional institutions under sentence are disqualified from voting but other inmates may vote by proxy. (ss. 16, 17).
12. The timing of the enumeration of electors is to be decided by the Chief Election Officer. (s. 18).

13. Voting proxy certificates may be obtained up to and including the day immediately preceding polling day; in addition, the grounds upon which a person is entitled to appoint a voting proxy are enlarged and a person may be a voting proxy for only two electors. (s. 17).
14. The category of persons who may represent an applicant at the revision is broadened. (s. 22 (2)).
15. Provision is made for the issuing of a certificate to vote, up to and including the day immediately preceding polling day to any elector whose name does not appear in the polling list. (ss. 22,24).
16. Provision is made for the returning officer to provide to each candidate a list of persons to whom a certificate to vote has been issued. (s. 21 (9)).
17. At the general poll, polling places shall, so far as is reasonably possible, provide level access for wheelchairs; such wheelchair access is mandatory at the advance polls. (ss. 13,44).
18. Landlords of buildings of 100 dwelling units or more, municipalities and school boards must, on the request of a returning officer, make premises under their control available as polling places. (s. 13).
19. The wording of the nomination procedure is changed to include the following requirements:
 - (a) the signatures of twenty-five electors;
 - (b) a deposit of \$200;
 - (c) the undertaking of a candidate to file an application for registration under the *Election Finances Reform Act*. (s. 27).
20. The deadline for providing to the returning officer a list of persons as nominations by candidates for enumerators is extended to seventy-two hours previous to the start of enumeration and the deadline for nominating poll officials is extended to seven days previous to polling day. (ss. 18,39).
21. Provision has been made for additional advance polls in the office of the returning officer on certain specified days between the hours of 11 a.m. and 8 p.m. (s. 44).
22. Advance polls at other locations are to be held on the Thursday, Saturday and Monday immediately preceding polling day; the locations must give access to wheelchairs; no declaration is required of any elector presenting himself at an advance poll. (ss. 44,45).
23. The provision permitting the ballot of an elector who is blind to be marked by a friend is extended to all disabled electors. (s. 55).
24. Provision is continued, in the event of a tie after the official tabulation or after a judicial recount, that the successful candidate will be determined by a casting vote given by the returning officer. (ss. 66,76).
25. The maximum penalties that may be imposed for various election offences are increased; generally from \$1,000 to \$5,000. (ss. 89,96).
26. Sections 142, 143, 161, 162 and 163 of the existing Act are dropped as redundant in light of the *Election Finances Reform Act*.

27. Sections have been added dealing with the office of the Chief Election Officer setting out the manner of appointment of staff, their job classifications, salaries and other benefits. (ss. 113 to 116).
28. Section 6 of the *Legislative Assembly Act*, dealing with the qualification of members, is amended effective on the dissolution of the Legislature that occurs after July 1, 1986; after that date British subjects who are not Canadian citizens will not be qualified to sit and vote as members of the Assembly. (s. 117).

Bill 17

1984

An Act to revise the Election Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

- Interpretation **1.**—(1) In this Act,
- (a) “advance poll” means a poll held under section 44;
 - (b) “ballot” means a ballot used for the conduct of an election;
 - (c) “Board” means the Board of Internal Economy referred to in section 84 of the *Legislative Assembly Act*;
 - (d) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
 - (e) “corrupt practice” means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;
 - (f) “election” means an election of a member or members to serve in the Assembly;
 - (g) “elector” means a person who is entitled under this Act to vote at an election to the Assembly;
 - (h) “electoral district” means an electoral district as set out in the *Representation Act*;
 - (i) “general election” means an election in respect of which election writs are issued for all electoral districts;
 - (j) “polling division” means a polling division established by the returning officer in accordance with this Act;
 - (k) “polling list” means the list of electors furnished to a deputy returning officer by the returning officer in accordance with this Act;
- R.S.O. 1980,
c. 235
- R.S.C. 1970,
c. C-34
- R.S.O. 1980,
c. 450

(l) "prescribed" means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;

(m) "registered candidate" means a candidate registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

(n) "registered party" means a political party registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;

(o) "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which, whenever he is absent, he has the intention of returning, subject to the following rules:

1. The place where a person's family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.

2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.

3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,

i. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or

ii. he has no quarters in any other electoral district to which he might at will remove;

(p) "voter" means an elector who has appeared at a polling place and has accepted a ballot for marking which has been placed in the ballot box or has declined his ballot and so declared.

Idem

▼ (2) In this Act, words importing the masculine gender only include females as well as males, and the converse. ▲

TIME

References to time

2. Any expression of or reference to time in this Act refers to the time that is in effect locally, that is, either standard time or daylight saving time, as the case may be.

OATHS

Oaths and statutory declarations, who may take

3.—(1) Except where otherwise provided, an oath or statutory declaration for the purposes of this Act may be taken by a returning officer, election clerk, revision assistant, justice of the peace, a commissioner for taking affidavits or a notary public and for election purposes, deputy returning officers and poll clerks are empowered to take such oaths or declarations at the poll.

No charge for taking oath or declaration

(2) Every person taking an oath or statutory declaration under or for the purposes of this Act shall do so gratuitously.

ADMINISTRATION

Appointment of C.E.O. and A.C.E.O.

4.—(1) The Lieutenant Governor in Council, on the address of the Assembly, shall appoint, as an officer of the Assembly, a Chief Election Officer, who shall be responsible for the administration of this Act and the Lieutenant Governor in Council may appoint, as an officer of the Assembly, an Assistant Chief Election Officer.

Remuneration of C.E.O.

(2) The Chief Election Officer shall be paid such salary as may be determined by the Lieutenant Governor in Council.

Salary of C.E.O. paid out of Consolidated Revenue Fund

(3) The salary of the Chief Election Officer shall be charged to and paid out of the Consolidated Revenue Fund.

Powers and duties of C.E.O.

(4) The Chief Election Officer shall consult with, advise and supervise the returning officers and election clerks in the performance of their duties, and may visit in person and consult with the deputy returning officer and poll clerk at any polling location.

Powers and duties of A.C.E.O.

(5) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the same powers and shall perform the same duties as the Chief Election Officer.

(6) If at any time subsequent to the issue of the writs for an election the office of Assistant Chief Election Officer is vacant and if the Chief Election Officer is absent or through illness is unable to perform the duties of his office or if the office is vacant, the Lieutenant Governor in Council may appoint some person as Acting Chief Election Officer to hold office during such period of time as is specified in the appointment and the Acting Chief Election Officer shall act in the place of the Chief Election Officer and while so acting possesses the same powers and shall perform the same duties as the Chief Election Officer.

Appointment
of Acting
C.E.O.

(7) Where in the opinion of the Chief Election Officer, by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under this Act, he may make such appointments or give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to the candidates affected.

In cases of
emergency,
etc.

(8) The Chief Election Officer may delegate in writing to any officer on his staff authority to exercise any power and perform any duty, other than those mentioned in subsection (7), assigned to him by this Act.

Delegation

(9) The Chief Election Officer shall prescribe the forms for use under this Act.

Forms

(10) The prescribing of forms under subsection (9) or the exercise of any power or the performance of any duty by the Chief Election Officer that he is authorized or required to exercise or perform under this Act shall be deemed to be an act or acts of an administrative nature.

Adminis-
trative
in nature

5.—(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

Persons
excluded
from being
returning
officers,
etc.

1. Judges of federal or provincial courts.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Executive Council.
4. Members of the Parliament of Canada or of the Assembly.
5. Persons who have served as members of the Assembly in the session next preceding the election.

6. Persons who have at any time been found guilty of a corrupt practice.

Validity of election not affected

(2) A contravention of this section does not affect the validity of the election.

EMPLOYEES SERVING OR VOTING AT AN ELECTION

Leave to be granted to employee to serve

6.—(1) Every employer shall, on request made not later than seven days before the time required, grant leave to an employee who has been appointed by a returning officer to serve as a poll official to enable him to perform his duties and the employer may not dismiss an employee who has been so appointed.

Remuneration

(2) The employer is not required to remunerate his employee for any leave granted under subsection (1), but such leave shall not be subtracted from any vacation entitlement.

Employees to have three consecutive hours for voting

(3) Every employee who is qualified to vote shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of voting and, if the hours of his employment do not allow for three consecutive hours, he may request that his employer allow him such additional time for voting as may be necessary to provide those three consecutive hours and the employer shall grant the request.

Deduction from pay prohibited

(4) No employer shall make any deduction from the pay of any employee or impose upon or exact from him any penalty by reason of his absence from his work during the consecutive hours that the employer is required to allow him under subsection (3).

Time off best suiting convenience of employer

(5) Any time off for voting as provided in subsection (3) shall be granted at the time of day that best suits the convenience of the employer.

RETURNING OFFICERS

Appointment of R.O.

7.—(1) The Lieutenant Governor in Council shall appoint a returning officer for each electoral district.

Qualifications of R.O.

(2) A returning officer must be of voting age, a Canadian citizen and resident in Ontario.

Refusal or incapacity to act

(3) If the person appointed as returning officer under subsection (1) dies, refuses to act, is incapacitated or resigns in accordance with subsection (9) or is discharged under subsection (10) or (11), some other person may be appointed by the Lieutenant Governor in Council as returning officer.

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Notification
of
appointment

(5) Every returning officer immediately upon receiving notice of his appointment shall take the prescribed oath, faithfully to perform his duties without partiality, fear, favour or affection.

Oath
of R.O.

(6) Subject to the direction of the Chief Election Officer, every returning officer shall provide for such clerical and other assistance as is necessary in the performance of his duties.

Clerical
and other
assistance

(7) A returning officer shall consult with, advise and supervise the deputy returning officers and poll clerks in the performance of their duties and he or his election clerk or his delegate may visit and consult with the deputy returning officer and poll clerk at any polling location in the electoral district.

Powers and
duties of
R.O.

(8) A returning officer shall comply with any oral or written instruction received from the Chief Election Officer.

Instructions
from C.E.O.

(9) A returning officer who is appointed under this Act shall continue in office as returning officer for the electoral district until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection (10) or (11).

Term of
office

(10) The Lieutenant Governor in Council may remove from office any returning officer who,

Removal
from
office

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

(11) The Chief Election Officer may, at any time during an election period, remove from office any returning officer who, in the opinion of the Chief Election Officer, fails to discharge competently his duties, or any of them, under this Act.

Idem

(12) No person shall obstruct or interfere with the returning officer or his staff or contrive any hindrance to the exercise of their rights or the performance of their duties under this Act.

Obstruction

ELECTION CLERK

8.—(1) Forthwith upon his appointment, the returning officer may appoint in writing a person who is of voting age, a

Election
clerk

Canadian citizen and resident in Ontario to be his election clerk but if upon receipt of a writ of election no person has been appointed, the returning officer shall immediately make the appointment.

Relatives

(2) No person who is a child, grandchild, brother, sister, parent, grandparent or the spouse of the returning officer shall be appointed as election clerk without the prior approval of the Chief Election Officer.

Appointment
of new
election
clerk

(3) The returning officer at any time and for any reason may appoint in writing a new election clerk in the place of the person previously appointed.

Duties

(4) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or is disqualified or refuses or is unable to perform his duties during an election and has not been replaced, shall act in his stead as the returning officer.

Oath
of election
clerk

(5) The election clerk before entering upon his duties shall take the prescribed oath.

DATES FOR CLOSE OF NOMINATIONS AND POLLING

Close of
nominations
and election
day

9. When an election is to be held, the Lieutenant Governor in Council may appoint and proclaim a day,

(a) for the close of nominations and the grant of a poll where required, which day shall be a Thursday, that is not more than sixty and not less than twenty-three days after the date of the writs of election; and

(b) for the taking of a poll, which day shall be the Thursday, that is the fourteenth day after the grant of a poll, unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in that case the day fixed for the poll shall be Friday of the same week.

R.S.O. 1980,
c. 219

WRITS

Writs to
bear same
date

10.—(1) The writs for a general election shall all be dated on the same day and shall be addressed to the returning officers.

Writs to state
nomination
and
polling days

(2) A writ of election shall state the respective days for the close of nominations and for the polling, if required, and is returnable forthwith after the election.

(3) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

Endorsement on writ

(4) If a writ for an election has been issued to a person in whose stead a new returning officer has been appointed under subsection 4 (7) or under subsection 7 (3), a new writ may be issued or the new returning officer or the election clerk, if applicable, may act under the writ already issued and the validity of the proceedings prior to the new person acting may not be questioned but the new or acting returning officer may appoint a new election clerk.

Where appointment superseded

PROCLAMATION

11.—(1) Forthwith after receipt of the writ of election, the returning officer shall by proclamation, declare,

Proclamation by returning officer

- (a) the dates, place and times during which the list of electors may be revised;
- (b) the date, place and time fixed for the close of nominations of candidates and for the granting of a poll, if required; and
- (c) the days and hours fixed for holding the advance polls and the general poll.

(2) The returning officer shall cause the proclamation to be printed and copies to be posted in conspicuous places on public or private property in the electoral district and the Chief Election Officer or the returning officer may arrange for the proclamation to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Posting, etc., of proclamation

POLLING DIVISIONS

12.—(1) The returning officer shall divide his electoral district into urban and rural polling divisions as directed by the Chief Election Officer and shall, on an annual basis or as directed by the Chief Election Officer, review his electoral district as to population distribution and shall, in collaboration with the clerk of each municipality contained within the electoral district, consider any changes to polling division boundaries.

Polling divisions

(2) Following any revision of boundaries as may be authorized by the Chief Election Officer, the returning officer shall prepare and submit to the Chief Election Officer one complete set of typed descriptions of the polling divisions established under subsection (1) together with a map or maps of

Description of polling divisions

the electoral district boldly marked with the polling division boundaries and the number assigned to each polling division.

POLLING PLACES

Polling
places

13.—(1) Subject to subsection (5) and to section 14, the returning officer shall arrange for at least one polling place for each polling division in the most central or most convenient place for the electors, furnished with light and heat and such other accommodation and furniture as may be required, and if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling division, such as in the case of multiple polling places established at one location.

Union of
polling
divisions

(2) The returning officer may unite two or more adjoining polling divisions and provide one polling place for the united divisions.

Location
of polling
places

(3) The poll may be situated in any public building or on private property and shall so far as is reasonably possible give access to wheelchairs.

When land-
lord, munic-
ipality, school
board, etc.,
to furnish
facilities

(4) Where, in the opinion of the returning officer, it is necessary to ensure to the maximum number of electors access to conveniently located polling places,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality;
- (c) a school board; or
- (d) a provincially funded institution,

shall, on the request of the returning officer made not less than fourteen days prior to polling day, make any premises under his or its control available as a polling location.

Where
polling places
not to be
R.S.O. 1980,
c. 244

(5) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional
polling
places

(6) The returning officer may provide such additional polling places in any polling division as are required having regard to the extent of the division, and the number of electors that may conveniently vote at one polling place and the returning officer shall determine how each such polling place shall be designated and an elector is entitled to vote only at the appropriate polling place.

(7) The returning officer shall prepare a list of the polling places within his electoral district showing the location of each by polling division number.

List of
polling
places

(8) Every elector shall have free access to the poll.

Access to
poll

HOSPITALS, RETIREMENT HOMES, NURSING HOMES AND OTHER INSTITUTIONS

14.—(1) Where an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or who are disabled, a hospital, a psychiatric facility, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside or where a retirement home of fifty beds or more is situate in an electoral district, a polling place shall be provided in such institution or upon the premises.

Polling places
in hospitals,
etc.

(2) Electors resident at an institution referred to in subsection (1) and who are entered in the list of electors may vote at such polling place and the returning officer shall arrange for the deputy returning officer and the poll clerk to attend upon the electors at their bedsides or otherwise for the purpose of receiving their ballots.

Voting

(3) On the completion of their canvass of the residents, the poll officials may continue the poll in one location until full opportunity has been given for all resident electors to vote.

Continuation
of poll

(4) Each candidate and one of his scrutineers may be present at such a polling place except when a ballot is marked under section 55.

Presence of
candidate
and
scrutineer

QUALIFICATION OF ELECTORS

15.—(1) In an electoral district in which an election to the Assembly is to be held, every person is entitled to vote who, on the general polling day,

Electors

- (a) has attained eighteen years of age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day;
- (d) resides in the electoral district; and
- (e) is not disqualified under this Act or otherwise prohibited by law from voting.

Re-enactment
of (1) (b, c)

(2) Clauses (1) (b) and (c) are repealed and the following substituted therefor:

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

Effective
date of
re-enactment

(3) Subsection (2) does not come into force until the 1st day of July, 1986.

Evidence of
person
claiming
to be elector

(4) For the purposes of this section, a statutory declaration by a person claiming to be entitled to vote is *prima facie* proof of the facts declared to.

Requirement
to receive
ballot
and vote

(5) In order to receive a ballot and vote, an elector's name must appear in the list of electors or on a certificate to vote or have been lawfully added under the provisions of section 51.

PERSONS DISQUALIFIED FROM VOTING

Disquali-
fication

16. Every person who is an inmate in a penal or correctional institution under sentence of imprisonment is disqualified from voting.

PROXIES

Appointment
of proxy

17.—(1) Where an elector has reason to believe that he or she will be unable to vote at the advance poll or on polling day by reason of,

R.S.C. 1970,
c. N-4

(a) being a member or the spouse or child of a member of the Canadian Forces as defined by the *National Defence Act*; or

(b) being employed in the business of long distance transportation by railway, air, water or motor vehicle; or


(c) business commitments or employer's directions; or

(d) being a person who for medical reasons is physically incapable of attending a polling place; or

(e) being a student duly registered at a recognized education institution; or

(f) being a person participating in a job training or retraining program; or

- (g) being an inmate in a penal or correctional institution, not under sentence of imprisonment,

the elector may apply in writing to vote by proxy and appoint some other elector in the electoral district to vote for him or her at the election. 

(2) No appointment of a proxy is valid unless it is made after the date of the issue of the writ of election and no such proxy remains in force after polling day. Term of appointment

(3) An elector may not act as proxy for more than two electors. Limitation

(4) On any day up to and including the day immediately preceding polling day, Certificate

- (a) a person appointed as a proxy voter under clause (1) (a), (b), (d), (e), (f) or (g); and

- (b) a person appointing a proxy under clause (1) (c) and the person appointed,

shall present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district.

(5) The returning officer or revision assistant shall examine the appointment and, on being satisfied as to the reason for a proxy being appointed and the eligibility and qualifications of the persons appointing the proxy and the person so appointed, shall require the latter to make a declaration in the prescribed form before issuing a certificate to vote. Idem

(6) A person appointed as a proxy voter must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote. Certificate to be presented

(7) An elector who has been appointed as a voting proxy is entitled to vote in his own right in his own polling division and, if within the same electoral district, may apply to the returning officer to have his name transferred to the polling list of the place where the proxy vote is to be cast or to have the name of the person appointing the proxy transferred to the polling list of his polling place. Proxy may vote in own right

(8) An elector who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the Cancellation of appointment

returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

Not more
than
one proxy

(9) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

ENUMERATION

Enumeration

18.—(1) Immediately following the issue of the writ for an election, the Chief Election Officer shall designate the period during which an enumeration of electors shall take place and shall advise the returning officer of the date on which the enumeration shall begin.

Nomination
of
enumerators

(2) After the issue of the writ and up to seventy-two hours before the enumeration is to begin,

- (a) the person who apparently will be the candidate at the election of the registered party represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators.

Selection
of
enumerators

(3) The returning officer shall select and appoint two persons of voting age as enumerators for each polling division, and with the approval of the Chief Election Officer may select persons at least sixteen years of age, and shall make such appointments as are necessary so that the enumerators for each polling division represent as far as possible two different political interests.

Idem

(4) If, seventy-two hours before the enumeration is to begin, sufficient names from which to select and make the appointment of the enumerators have not been received, the returning officer shall make such appointments as are necessary to enumerate the electoral district.

Candidates

(5) No person who apparently will be a candidate at the election shall be an enumerator.

(6) Forthwith upon their appointment and before commencing their duties, the enumerators shall take the prescribed oath and the returning officer shall supply each pair of enumerators with sufficient materials for the proper conduct of the enumeration.

Enumerators; oath, supplies

(7) The two enumerators shall act jointly and not individually in relation to each process in the preparation of the list of electors and in case of any disagreement they shall report the matter to the returning officer whose decision shall be final.

Enumerators to act jointly

(8) The enumerators shall conduct their enumeration between the hours of 9 a.m. and 9 p.m. and, unless they have obtained the information required or unless an occupant of any dwelling unit has stated that no other elector remains to be enumerated, they must make a second visit between the hours of 5 p.m. and 7 p.m. and, if necessary, a third visit may be made between the hours of 7 p.m. and 9 p.m.

Hours of enumeration

(9) Each name and address obtained by the enumerators during their door-to-door canvass or as directed by the returning officer shall be entered on a record which shall be signed by both enumerators and a copy thereof left at each dwelling unit.

Enumerator's record

(10) Where, after making the required number of visits as set out in subsection (8), the enumerators are unable to obtain the information necessary, they shall leave at such dwelling unit the prescribed notice of their inability to obtain information.

Notice of inability to obtain information

(11) The enumerators shall at all reasonable times and upon producing proper identification have free access for the purposes of enumeration to the entrance door of each dwelling unit in any building having more than one dwelling unit.

Enumerators to have free access

(12) No person shall obstruct or interfere with the enumerators or contrive any hindrance in the exercise of their rights or in the performance of their duties under this Act.

Obstruction, etc., of enumerators

(13) The returning officer may at any time replace any enumerator by appointing another to act in his place and, upon receiving such notice in writing from the returning officer, the enumerator so replaced shall forthwith deliver to the returning officer all credentials, papers and materials which have been supplied.

Replacement of enumerator

(14) An enumerator who neglects, omits or refuses to perform any of his duties under this Act or who refuses to com-

Forfeiture of right to payment

ply with any direction in writing from the returning officer may forfeit his right to payment for any service or part thereof already rendered.

LIST OF ELECTORS

Preparation
of list of
electors

19.—(1) The enumerators, immediately after the completion of the canvass of their polling division, from their records shall prepare a list of electors legibly typewritten in the prescribed form,

- (a) under headings of thoroughfares by name and in numerical order of residence where such names and numbers are in effect;
- (b) under geographic area or municipal headings in alphabetical order by surname; or
- (c) as directed by the returning officer.

Delivery of
list to R.O.

(2) Not later than four days from the date of their appointment, the enumerators shall,

- (a) certify the total number of names contained in the list; and
- (b) unless otherwise directed by the returning officer, deliver the list to the returning officer together with all used and unused material.

Disposition
of list

(3) On receipt of and having accepted the list of electors from each pair of enumerators, the returning officer shall arrange for,

- (a) one copy of the list to be posted by the enumerators in urban areas in a conspicuous place in their polling division;
- (b) one copy of the list to be retained in the returning office;
- (c) one copy to be furnished as soon as possible to each candidate in the electoral district;
- (d) up to twelve copies of the list to be furnished to each constituency association or candidate in the electoral district; and
- (e) a notice of enumeration, including the poll location, to be mailed to each elector.

(4) Following preparation of the list of electors by the enumerators and up to and including the fourteenth day before polling day, any person who has knowledge of the fact that the name of an elector resident in an urban polling division has been omitted from the list, may so notify the returning officer.

Notification
of omitted
electors

(5) The returning officer may appoint pairs of special enumerators for the purposes of subsection (6) from among those who have already acted as such for the pending election or may appoint others in the manner provided by section 18.

Special
enumerators

(6) The returning officer, before the preparation of the polling lists, shall cause special enumerators to call once at the address of any elector referred to in subsection (4) and to enumerate such elector and any other electors at that address whose names were also omitted.

Enumeration

(7) On completion of the enumeration, the returning officer shall cause any names obtained under subsection (6) to be added directly to the list of electors compiled during the original enumeration or shall direct the special enumerators to prepare an additional list of electors by polling division number, in the prescribed form.

Addition to
list of
electors

(8) The returning officer shall supply to each candidate, on request, a copy of each list referred to in subsection (7).

Copies

COMPLAINT AGAINST NAME ON LIST

20.—(1) On any day up to and including the fourteenth day before polling day an elector may file with the returning officer a complaint, on the prescribed form, that the name of a person who should not be included, has been included in the list of electors.

Complaint
for wrongful
entry on list

(2) The returning officer, upon receipt of the complaint, shall send by registered mail to the person objected to at the address shown in the list and to such other address, if any, as may be mentioned in the complaint, a copy of the complaint along with a notice requiring such person or his representative to appear before the returning officer on a day to be named in the notice and a copy of the notice shall be given to the complainant.

Notice to
person
objected to

(3) On the day named in the notice and in the presence of any of the persons concerned with the complaint, the returning officer may hear an explanation by the person who filed the complaint as to the facts alleged and what is alleged by the

Hearing of
complaint

person or by the representative of the person against whom the complaint was made.

Decision

(4) The returning officer shall make such decision concerning the complaint as is warranted under the circumstances and that decision shall be final.

REVISION

Application for additions, corrections, etc., to list

21.—(1) Up to and including the day immediately preceding polling day, the returning officer shall consider all applications concerning the list of electors or the polling list with regard to the application for a proxy certificate, addition of a name, the correction of an error or the deletion of a name and his decision is final.

Revision assistants

(2) The returning officer may appoint his election clerk to assist him and, subject to the approval of the Chief Election Officer, may appoint additional revision assistants to act in the returning office or at other fixed locations and every such assistant shall have the same qualifications as the returning officer and the same powers at the revision as the returning officer.

Revising agents

(3) The returning officer may, subject to the approval of the Chief Election Officer, appoint two persons as revising agents for the purpose of enumerating qualified electors of a particular area, section or building containing multiple dwelling units within the electoral district who were missed by the enumerators.

Oath

(4) Every such assistant or agent appointed under subsection (2) or (3) upon being appointed shall take the prescribed oath.

Grounds must be sufficient

(5) Before making any addition, correction or deletion in the list of electors, the returning officer shall be satisfied that the applicant has provided sufficient grounds for the action requested and that the person appearing before him understands the effect of any statements made in the application.

Procedure where application refused

(6) If it appears to the returning officer that an application under subsection (1) should be refused, the decision shall be endorsed on the application along with his reasons and the applicant informed.

Irregularity not to affect result of election

(7) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election.

(8) Where the returning officer or his revision assistant does not understand the language spoken by an applicant or where the applicant is deaf, the applicant has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the applicant and the answers, but in the event of inability to secure an interpreter, the application may for the time being, be refused.

Interpreter where necessary

(9) The returning officer shall, on request made to him, provide to each candidate of a registered party a list of persons to whom a certificate to vote has been issued up to the time the request is made.

List of persons issued certificate

(10) A person added to the polling list under section 22 or 24 must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Certificate to be presented

(11) A person whose name appears in a list of electors and who wishes to have the entry related to him deleted, must appear before the returning officer and complete a declaration to that effect.

Deletion of name from list

ADDITIONS

22.—(1) Up to and including the day immediately preceding polling day, for the purpose of obtaining a certificate to vote, an elector whose name does not appear in the list of electors may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf and by statutory declaration substantiate his identity and qualifications as an elector.

Application for certificate to vote

(2) An elector acting on behalf of another under subsection (1) may do so for his child, grandchild, brother, sister, parent, grandparent or spouse but may act for only one additional person and a person who is not an elector may act for only one elector.

For whom elector may act

CORRECTIONS

23.—(1) The returning officer or his assistant, as set out in section 21, shall consider all applications for correction of mistakes in names or addresses in the list of electors and upon satisfactory evidence being furnished to him may make the necessary corrections.

Corrections to list

(2) A mistake in the name or the address of an elector shown in the polling list is not a ground for questioning the

Mistake in name, etc.

eligibility to vote of the elector, provided that at the time of voting the elector takes the prescribed oath, if required to do so by the deputy returning officer.

TRANSFERS

Change of
residence

24.—(1) Up to and including the day immediately preceding polling day, an elector whose name appears on a polling list for the pending election and who has moved may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf to have his name included in the polling list for the polling division where he now resides.

Proxy voters,
election
officials

(2) Where an elector whose name appears on a polling list for the polling division where he resides and,

(a) has appointed a proxy voter whose name appears on a different list in the same electoral district; or

(b) has been appointed,

(i) to cast a proxy vote at a polling place other than his own but in the same electoral district,
or

(ii) to act as a deputy returning officer, poll clerk or scrutineer at a polling place other than his own but in the same electoral district,

an application may be made to the revising official for a certificate to vote at the other polling place.

Notice of
transfers

(3) The revising official whenever possible, shall advise the returning officer of the original electoral district, if applicable, or the deputy returning officer of the original polling place of any transfer made.

POLLING LISTS

Official
polling
list

25.—(1) The returning officer shall prepare the official polling list for each polling division by attaching to a copy of the original list of electors, a copy of any additional lists of electors prepared under his direction.

Copy to
D.R.O.'s

(2) The returning officer shall certify and supply a copy of the official polling list to each deputy returning officer for use at the advance polls and on regular polling day.

CANDIDATES

26.—(1) Every person is qualified to be a candidate who, Who may be candidate
at the time of signing the consent to nomination,

(a) is of voting age;

(b) is a Canadian citizen or other British subject;

(c) has resided in Ontario for the twelve months next preceding polling day; and

(d) is not disqualified by the *Legislative Assembly Act* R.S.O. 1980, c. 235 or by any other Act.

(2) Clauses (1) (b) and (c) are repealed and the following Re-enactment of (1) (b,c)
substituted therefor:

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

(3) Subsection (2) does not come into force until the 1st Effective date of re-enactment
day of July, 1986.

(4) No person who has been engaged as a returning officer, Who may not be candidate
election clerk, enumerator or revision assistant at the revision of any list of electors to be used at the election, is eligible as a candidate.

(5) No person who has been found guilty within eight years Idem
of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election.

(6) A candidate may undertake any of the duties that his scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act. Right of candidate to undertake duties of scrutineer

CLOSE OF NOMINATIONS

27.—(1) The close of nominations of candidates shall be 2 Time for close of nominations
p.m. of the day stated as such in the writ of election.

(2) One hour before the close of nominations, the returning officer shall make or cause to be made a pronouncement in the prescribed form and shall read or cause to be read publicly the writ of election. Procedure on nomination day

Separate
nomination
papers, etc.

(3) A candidate may be nominated in one electoral district only and each candidate shall be nominated by a separate nomination paper which shall include or be accompanied by his consent in writing to the nomination.

Contents of
nomination
papers

(4) The nomination paper of a candidate shall state his name and address of residence and shall be signed by, or accompanied by the signatures of at least twenty-five electors of the electoral district and an elector may sign the nomination papers of more than one candidate.

Deposit

(5) A deposit of \$200 in cash or by cheque made payable to the Chief Election Officer shall be handed to the returning officer at the time the nomination paper is filed.

Refund

(6) Where a candidate receives at least 10 per cent of the valid ballots cast at the election, the deposit under subsection (5) shall, in the case of a cash deposit, be refunded to the candidate and, in the case of a cheque, be refunded to the issuer of the cheque.

How name
to be shown
on ballot

(7) Subject to subsection (8) and to subsections 34 (2) and (5), at the time of filing his nomination papers, a candidate shall state in writing to the returning officer how he wishes his name to be shown on the ballot.

Similarity
of names

(8) Where the given names and surname requested to be shown on the ballot are identical or so nearly identical so as to create the possibility of confusion with the names requested to be shown on the ballot by another candidate whose nomination paper has already been submitted or certified, the returning officer shall immediately communicate the facts to the candidates and to the Chief Election Officer who shall consult with the candidates in question and resolve how each name is to be shown on the ballot, and the Chief Election Officer shall before 2 p.m. on the day following the day set for the close of nominations advise the returning officer how the names are to be shown on the ballot.

Registration
under
R.S.O. 1980,
c. 134

(9) The nomination paper shall include or be accompanied by either a statement by the candidate that he has filed, or an undertaking by the candidate that, prior to polling day, he will file an application for registration with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*.

When
nomination
papers to
be filed

(10) The nomination paper shall be filed with the returning officer at his office at any time during the seven days immediately preceding closing day or at any time up to the close of nominations on that day.

(11) Where the nomination paper is filed with the returning officer during the seven days immediately preceding, or not later than 11 a.m. of the closing day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Certificate
of R.O. as
to
regularity

(12) Where the nomination paper is filed with the returning officer after 11 a.m. of the closing day and before the time fixed for the close of nominations,

Nomination
paper

(a) the returning officer shall accept and examine the nomination papers; and

acceptance

(b) if on examination of the nomination paper it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the candidate and to the Chief Election Officer but shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day following, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

rejection

(13) It is not necessary for a candidate to be present when his nomination paper is filed with the returning officer.

Candidate
need not
be present

(14) The returning officer shall issue a receipt for any nomination paper accepted by him under subsections (11) and (12).

Receipt

28. If, at the close of nominations, only one candidate has filed a nomination paper, the returning officer shall close the election and declare such candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80.

Election by
acclamation

NOTICE OF POLL

29.—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes.

Grant of
poll

(2) The returning officer shall cause the prescribed notice of poll to be printed and the notice shall be posted in conspicuous public places in the electoral district and at least one copy shall be posted at each polling place on the days of the advance poll and the general poll.

Notice of
grant of
polls

WITHDRAWAL OF CANDIDATE

Withdrawal
of candidate
after
nomination

30.—(1) A candidate may withdraw at any time between filing his nomination paper and polling day by delivering to the returning officer the prescribed notice of withdrawal signed by himself in the presence of a subscribing witness.

Idem

(2) In the case of a candidate withdrawing after the close of nominations his deposit is forfeited and,

- (a) if there remains but one candidate, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80; or
- (b) if there remains two or more candidates and only if the ballots have been printed, the returning officer, if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted in a conspicuous place in every polling place in the electoral district, and any ballots cast for such candidate who has so withdrawn are void and shall be considered as rejected ballots.

DEATH OF CANDIDATE

Death of
candidate

31.—(1) If a candidate dies after being nominated and before the close of the poll, the returning officer shall suspend the election and the Chief Election Officer shall fix new days for the nomination of candidates and for polling in that electoral district but any certified nominations may, at the option of the candidate nominated, remain valid.

Return of
deposit on
death of
candidate

(2) The deposit of a candidate who dies before the close of the poll shall be returned to the personal representative of the candidate.

SCRUTINEERS

Appointment
of scrutineer

32.—(1) A candidate or a person designated in writing by him, which designation is filed with the returning officer, may appoint any person at least sixteen years of age to be a scrutineer for the candidate and to be present at any place at which a scrutineer may attend under this Act.

When
scrutineer
may not
challenge

(2) A scrutineer who is not an elector may not challenge the right to vote of any elector at a polling place.

(3) Not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll is open, and at the counting of the votes. Number of scrutineers in polling place

(4) Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. Non-attendance of scrutineers

BALLOT PAPER

33.—(1) The paper used for printing the ballots shall be as approved and ordered by the Chief Election Officer and shall be manufactured to contain a special thread or watermark so placed as to run through each ballot. Ballot paper

(2) The manufacturer of the paper shall make a declaration that none of the paper so manufactured will be supplied to any person other than the Chief Election Officer and upon delivery of the paper the Chief Election Officer shall cause the number of sheets received to be counted and a receipt issued to the manufacturer. Declaration by manufacturer

(3) The ballot paper shall be kept under lock and key in the custody of the Chief Election Officer. Custody of ballot paper

BALLOTS

34.—(1) All ballots shall be of the same description and as nearly alike as possible. Uniformity

(2) The names of the candidates shall be shown in capital letters on the ballot in order of their legal surnames, and, subject to subsection 27 (8), alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name, and at his request any sobriquet or an abbreviation or familiar form of a given name may be used in lieu of a candidate's legal given name or names. Form of ballot

(3) A circular space shall be shown on the ballot horizontally aligned with each candidate's name. Idem

(4) The circular spaces, numbers, names of the candidates and any other information required under subsection 27 (8) shall be the natural colour of the ballot paper and the remainder of the face of the ballot shall be black. Idem

Idem

(5) Subject to subsection 27 (8), there shall not be included with any candidate's name on the ballot any occupation, title, honour, decoration, degree, brackets or quotation marks.

Numbering of ballots

(6) The ballots shall be numbered consecutively on the stubs and shall be stapled or stitched into units as determined by the returning officer.

Printing of ballots

35.—(1) The Chief Election Officer or the returning officer shall cause to be printed on the approved paper a sufficient number of ballots for the election in the electoral district.

Printer's name, etc.

(2) The ballots shall bear upon the back the name of the electoral district, the date of polling and the name of the printer, and the printer shall provide to the returning officer the prescribed affidavit as to the number of sheets of ballot paper received and the disposition thereof including the total number of ballots printed and delivered to the returning officer.

Count of ballots and affidavit

(3) The returning officer shall immediately make a count of the ballots received from the printer and shall take the prescribed affidavit and forward it to the Chief Election Officer along with the affidavit referred to in subsection (2).

Supply to D.R.O.

36.—(1) The returning officer shall supply each deputy returning officer before the polling day with a ballot box, a certified copy of the polling list, the materials provided by the Chief Election Officer necessary for the proper conduct of the poll and a sufficient number of ballots for the electors at the polling place.

Record of quantity of ballots provided

(2) The returning officer shall specify in writing to each deputy returning officer the quantity of ballots provided and record their serial numbers and the record shall be forwarded to the Chief Election Officer with the other documents required to be forwarded at the close of the election.

Count of ballots by D.R.O.

(3) The deputy returning officer shall count and verify the quantity of ballots received from the returning officer and at the close of the poll forward a statement of such count to the returning officer along with the other poll documents and election material to be so forwarded.

BALLOT BOXES

Ballot boxes to be supplied

37.—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

(2) Every ballot box shall be so constructed and sealed that on polling day the ballots can be deposited therein but cannot be withdrawn without unlawfully unsealing the box or without evidence remaining of such tampering. How made

VOTING SCREENS

38.—(1) The returning officer shall furnish each deputy returning officer with at least two voting screens. Voting screens to be furnished

(2) The deputy returning officer shall ensure that the voting screens at the polling place are positioned so that electors may mark their ballots with maximum privacy and without other persons being able to see how they are marked. Privacy when marking ballots

(3) Except as provided by sections 14 and 55, not more than one elector shall be permitted to use a voting screen at any one time. One elector only at a time

POLL OFFICIALS

39.—(1) At least seven days before polling day, lists of names of electors in the electoral district who are not candidates may be furnished to the returning officer, Nomination of D.R.O. and poll clerk

(a) as potential deputy returning officers, by the candidate of the registered party represented by the government of the day; and

(b) as potential poll clerks, by the candidate of a different political interest, the candidate for which at the next preceding provincial election received the highest number of votes or the next highest number of votes, as the case may be.

(2) From the lists furnished to him as provided by subsection (1), the returning officer shall select and appoint a deputy returning officer and a poll clerk for each polling place so that they represent two different political interests. Appointment of D.R.O. and poll clerk

(3) If sufficient names from which to select and make the appointment of the poll officials have not been received, the returning officer shall make such appointments as are necessary. Insufficient nominations

(4) Deputy returning officers and poll clerks before acting shall take the prescribed oath and their appointment shall be endorsed upon or attached to the poll record. Oath

Duties of
poll clerk

(5) As directed by the deputy returning officer, the poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Forfeiture
of right to
payment

(6) Deputy returning officers or poll clerks who neglect, omit or refuse to perform any of their duties under this Act may forfeit their right to payment for any service already rendered.

Death or
absence of
D.R.O.

(7) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking a new oath.

TIME OF GENERAL POLL

Hours of
polling
generally

40.—(1) Except as provided by subsections (2), (3) and (4), the general polls at every election to the Assembly shall open at 9 a.m. and close at 8 p.m. of the same day.

In Central
Time Zone

(2) In an electoral district that lies entirely west of the meridian of 90° W. longitude the general polls shall open at 8 a.m. and close at 7 p.m. of the same day.

C.E.O. may
establish
different
hours

(3) The Chief Election Officer may at his discretion establish any period of eleven consecutive hours on the general polling day for voting in an electoral district or part thereof.

When
voting not
commenced
or
interrupted

(4) If for any reason, voting at a polling place is not commenced at the proper time or is interrupted during the polling hours, the Chief Election Officer shall be advised by the returning officer and at his discretion, the Chief Election Officer shall,

- (a) extend the closing time; or
- (b) resume the polling on the following day at 9 a.m. and continue the same from day to day if necessary, until the poll has been open with free access to the electors for eleven hours in total.

PRESERVATION OF THE PEACE

Assistance
by justices
and police
officers

41. A returning officer or deputy returning officer may require the assistance of justices of the peace, police officers and other persons to aid him in maintaining peace and order at the election and may appoint as many such other persons as he considers necessary.

SECURITY OF PROCEEDINGS

42.—(1) In addition to any elector or electors in the process of voting, except as provided by sections 4, 7, 14, 44 and 55, the only persons permitted to remain in a polling place during the time the poll remains open and at the counting of the ballots are the deputy returning officer, the poll clerk, the candidates and not more than one scrutineer for each candidate at any one time.

Who may be in polling places

(2) Every deputy returning officer, poll clerk, candidate or scrutineer authorized to attend at a polling place shall take an oath of secrecy.

Oath of secrecy

(3) No person shall attempt to obtain at a polling place information as to the candidate for whom an elector is about to vote or interfere or attempt to interfere with an elector in a polling place.

Interference with electors

(4) Subject to sections 14 and 55, an elector shall not display his ballot to any person so as to indicate how he has voted.

Elector not to display ballot

(5) No person shall, directly or indirectly, induce or attempt to induce an elector to display his ballot to any person so as to indicate how he has voted.

Inducing elector to display ballot

(6) No person shall communicate any information obtained at a polling place as to the candidate for whom an elector is about to vote or has voted or whether he declined to vote.

Communicating information as to how elector is voting

(7) In any legal proceedings no person may be compelled to state for whom he voted or whether he marked his ballot or not.

No person compellable to disclose his vote

VOTING AT ONE PLACE ONLY

43. If the name of a person entitled to vote is entered on the polling list for more than one polling division he shall nevertheless vote only at one polling place.

Person to vote in one division only

ADVANCE POLLS

44.—(1) For the purpose of receiving the votes of electors who expect to be unable to vote on polling day in the electoral district for which their names appear on the polling list or on certificates to vote, advance polls shall be open,

Advance polls

- (a) in an office of the returning officer, provided that the ballots have been printed, on the 12th, 10th, 9th, 8th, 6th and 2nd day preceding polling day; and
- (b) at designated other locations on the Thursday, Saturday and Monday immediately preceding polling day.

Advance
polling
places

(2) The returning officer shall provide as many advance polling places under clause (1) (b) as are approved by the Chief Election Officer and shall select locations which give access to wheelchairs.

Time of
poll

(3) The advance polls in an electoral district shall be open from 11 a.m. to 8 p.m. or during such hours as are determined by the Chief Election Officer.

Notice
of polls

(4) At least three days prior to the first advance poll day under clause (1) (a), the returning officer shall cause a notice of the days, times and locations of the advance polls to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Declaration

45.—(1) Every person offering himself as a voter at the polling place shall be required, before being allowed to vote, to take the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll.

List of
electors who
have voted

(2) Forthwith after the close of the poll each day, the deputy returning officer shall provide to the returning officer a list of the names, addresses and polling division numbers of all electors who have voted or forfeited their right to vote and the returning officer before polling day shall furnish every candidate in the electoral district with a copy of such list.

Noting other
D.R.O. lists

(3) The returning officer shall indicate in the polling list to be supplied to each deputy returning officer for polling day the name of each elector who at the advance poll has voted or forfeited his right to vote.

Candidates
and
scrutineers

(4) Candidates or their scrutineers are not entitled to be present when votes are cast at an advance poll held in the office of a returning officer.

Counting
of ballots

(5) On the general polling day, the deputy returning officer and the poll clerk shall, at the hour fixed for the closing of the general poll, and in the presence of such of the candidates or their scrutineers as are present, proceed to count the ballots cast.

(6) Except as in this section otherwise provided, the provisions of this Act relating to secrecy of proceedings, voting procedures, counting of the ballots and the reporting of the results apply with necessary modifications to voting under this section.

Application

(7) The vouching provisions of section 51 do not apply at an advance poll.

Vouching not to apply at advance poll

PROCEDURE AT THE POLL

46.—(1) The deputy returning officer and poll clerk shall attend at the polling place at least thirty minutes before the hour fixed for opening the poll.

Attendance of D.R.O. and poll clerk at polling place

(2) Any scrutineers present during the fifteen minutes before the opening of the poll are entitled to have the ballots counted in their presence and to inspect all other materials relating to the poll.

Counting ballots at opening of poll

(3) The deputy returning officer immediately before opening the poll shall show the empty ballot box to any persons present and shall then seal the box as prescribed by the Chief Election Officer in such manner as to prevent its being opened without breaking the seals.

D.R.O. to show box empty, then seal it

(4) Except as provided in subsection 14 (2) and subsection (5) of this section, the deputy returning officer shall then place and keep the ballot box on a desk, counter or table or otherwise position it above floor level in full view of all present and shall keep it sealed until the close of the poll.

Placement of ballot box

(5) The ballot box may be moved by the poll officials to facilitate voting by an elderly or disabled elector but where the box is so moved it may be accompanied by any scrutineer present and a record of any such action and any objection taken by a scrutineer shall be made in the poll record opposite the name of the elector.

When ballot box may be moved

47.—(1) Every elector upon entering the room or area where the poll is being held shall state his name and place of residence to the deputy returning officer, which particulars shall be entered in the poll record by the poll clerk.

Statement of name, etc., by elector

(2) Every elector who is entitled to vote shall receive from the deputy returning officer a folded ballot on the back of which the deputy returning officer has previously put his initials, so placed that when the ballot is refolded they can still be seen and upon the request of the elector, the deputy

D.R.O. to initial back of ballot

returning officer shall instruct the elector in the manner of marking and how to refold the ballot.

Where
oath
may be
required

(3) If a deputy returning officer has reason to believe that a person offering to vote is not an elector or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the list, or when requested by a candidate or a scrutineer who is an elector, the deputy returning officer shall administer the prescribed oath to the elector.

Where
elector
alleges he
has
been
personated

(4) If a person representing himself to be an elector applies for a ballot after another person has voted as such elector, he is entitled to receive a ballot after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer, and a note shall be made in the poll record to that effect and of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates.

Elector
refusing to
take oath

(5) An elector who has refused to take an oath when required so to do forfeits his right to vote.

Entry to be
made in
poll record

(6) The poll clerk shall indicate in the poll record opposite the name of each elector, as applicable, if an oath was administered or refused.

MARKING A BALLOT

Mode of
marking
ballot

48.—(1) The elector on receiving a ballot shall forthwith proceed to one of the voting screens and there, using a pencil or pen indicate the candidate of his choice by marking one of the circular spaces on the ballot with a cross or other mark in any colour.

Mode of
folding and
depositing
ballot

(2) The elector shall then refold his ballot so that the initials on the back are visible and hand it to the deputy returning officer who shall without unfolding it ascertain by examining his initials that it is the same ballot issued to the elector and shall then, in full view of all present, including the elector, place it in the ballot box, and thereupon the poll clerk shall indicate in the poll record that the elector has voted.

Elector to
leave polling
place after
voting

(3) An elector whose ballot has been placed in the ballot box shall be deemed to have voted and shall forthwith leave the polling place.

CERTIFICATE OF ERROR

49. The returning officer may certify for addition to the polling list, the name of any elector omitted in error, Certificate of error

- (a) upon the elector producing to the returning officer or to the deputy returning officer proof of enumeration; or
- (b) upon the returning officer being satisfied that such person was enumerated or was added at the revision,

and the returning officer shall furnish each candidate with a list of such certifications.

VOTING CERTIFICATES

50.—(1) An elector voting under the authority of a certificate issued by the returning officer or revision assistant shall surrender it to the deputy returning officer at the polling place before receiving a ballot. Surrender of certificate

(2) The deputy returning officer or poll clerk shall record in the poll record, opposite the name of the elector, the words "voted under certificate" and shall file the certificate in the envelope of election documents to be returned to the returning officer. Entry in poll record

VOUCHING

51.—(1) In a rural polling division, other than at an advance poll, an elector whose name was omitted from the polling list, may apply to the deputy returning officer to have his name added to the list and his name shall be added, Where elector's name omitted in rural polling division

- (a) if he takes the prescribed oath as to his eligibility to vote; and
- (b) if he is accompanied by an elector who is a resident in the same polling division and whose name is on the polling list and who vouches on oath that,
 - (i) he knows the person whose name has been omitted, and
 - (ii) he believes such person to be qualified to be entered on the list.

May vouch
for more
than one
elector

(2) An elector vouching, as provided by subsection (1), may do so for more than one elector.

Name to be
added to list

(3) The deputy returning officer after taking the prescribed oath shall cause the applicant's name to be added to the polling list and entered in the poll record with the words "vouched for" written thereafter.

Right to
vote

(4) The applicant, upon taking the oath and being vouched for, is entitled to vote.

BALLOT TAKEN FROM POLL

Electors not
to take
ballot from
polling
place

52. An elector who has received a ballot shall not take it out of the polling place and any elector who leaves without delivering the ballot to the deputy returning officer forfeits his right to vote and the deputy returning officer shall cause an entry to be made in the poll record that the elector took his ballot out of the polling place.

DECLINED BALLOT

Declined
ballot

53. An elector who has received a ballot and returns it to the deputy returning officer declining to vote, forfeits his right to vote and the deputy returning officer shall immediately write the word "declined" upon the back of the ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record that the elector declined to vote.

CANCELLED BALLOT

When ballot
may be
replaced

54. A ballot that,

- (a) has been improperly printed;
- (b) has been inadvertently dealt with in such manner that it cannot be used; or
- (c) has been issued to an elector who has marked it other than how he intended to mark it or for any reason objects to it and returns it to the deputy returning officer requesting another,

may be replaced with another ballot by the deputy returning officer who shall immediately write the word "cancelled" upon the back of the first ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record stating the reason for cancelling the ballot.

DISABLED ELECTORS

55.—(1) On the application of any elector who is unable to read or who is disabled and thereby prevented from voting in accordance with the other provisions of this Act, the deputy returning officer may assist the elector to the voting screen or if the elector making the application takes an oath as to his inability to vote without assistance, shall thereafter assist the elector at the voting screen by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Disabled elector

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of such elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the elector to the voting screen and there mark the elector's ballot for him.

Ballot marked by friend

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot was marked.

Declaration to be made by friend

(4) No person shall be allowed to act as the friend of more than one elector mentioned in subsection (1) at any polling place, other than a polling place established under section 14.

May act as friend once only

(5) The deputy returning officer shall enter in the poll record opposite the elector's name the reason why the ballot was marked by him or by a friend of the elector.

Entry in poll record

INTERPRETER AT THE POLL

56. Where neither the deputy returning officer nor the poll clerk understands the language spoken by an elector or where the elector is deaf, the elector has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the elector and the answers, but in the event of inability to secure an interpreter, the elector shall, for the time being, be refused a ballot.

When language spoken by elector not understood

COUNTING THE BALLOTS

57.—(1) Immediately after the close of the poll, the deputy returning officer shall count the number of electors who appear by the poll record to have voted and on such record shall enter that number and draw a bold double line immediately below the name of the elector who voted last, and shall

Duties of D.R.O. at close of poll

sign his name thereto, then, in the presence and in full view of the persons entitled to be present, as set out under subsection 42 (1), he shall open the ballot box and proceed to count the number of valid ballots cast for each candidate and all other ballots therein giving full opportunity to those present to see each ballot and observe the procedure.

What may be accepted as valid ballot

(2) Only a ballot which was supplied to the elector by the deputy returning officer and with only one of the circular spaces marked and upon which there is no writing or mark by which the voter can be identified shall be accepted as a valid ballot at the count.

Where ballot not to be rejected

(3) No word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

Objections to be noted

(4) The deputy returning officer shall make a note in the poll record of every objection taken to a ballot by a candidate or scrutineer and shall decide the objection, subject to review as hereinafter provided.

Numbered and initialled

(5) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer.

How ballots to be counted

58.—(1) All accepted ballots indicating the votes given for each candidate respectively and all unmarked, rejected, cancelled, declined and unissued ballots shall be counted and sealed in separate envelopes by the deputy returning officer and the stubs of any ballots issued shall be included in the envelope with the unissued ballots.

Candidates and scrutineers may sign envelope

(2) Any candidates or scrutineers present may write their signatures across the flap of any envelope containing ballots and may also affix their seals.

STATEMENT OF THE POLL

Statement to be made by D.R.O.

59.—(1) The deputy returning officer shall complete a prescribed statement of the poll, accounting for all the ballots supplied to him by the returning officer, and the statement shall be signed by the deputy returning officer and poll clerk and may be signed by any candidate or scrutineer present.

Disposition of statements

(2) The deputy returning officer shall ensure that,

- (a) one part of the statement is enclosed in a special envelope supplied for the purpose of the official tabulation;

- (b) one part is placed in or attached to the poll record; and
- (c) one part is retained by him.

CERTIFICATE OF COUNT

60. The deputy returning officer shall complete a prescribed certificate of the number of ballots cast for each candidate and of the number of rejected and unmarked ballots and shall provide a copy of the certificate for each candidate to the scrutineer present and in the case where no candidate or scrutineer is present the certificates shall be forwarded to the returning officer in the poll return envelope.

Certificate of result of poll

FINAL POLL PROCEDURE

61. The deputy returning officer and the poll clerk shall ensure that the poll record, polling list, ballot envelopes and all other documents collected or used at the polling place are placed in the poll return envelope and shall each take the prescribed oath that their duties have been completed.

Polling list, etc., to be placed in poll return envelope

62.—(1) The deputy returning officer shall then personally deliver the sealed poll return envelope along with the sealed official tabulation envelope to the returning officer or both envelopes shall be delivered by the poll clerk or by some other person chosen as special messenger by the returning officer or the deputy returning officer who shall write on the envelopes the name of the person to whom they were entrusted and shall take a receipt therefor.

Delivery of poll return envelope to R.O.

(2) Any candidate or scrutineer present may affix his seal or write his signature across the flap of the sealed poll return envelope or the sealed official tabulation envelope.

Candidate or scrutineer may affix seal

(3) In lieu of proceedings under subsection (1), the deputy returning officer, with the approval of the returning officer, may seal the official tabulation envelope inside of the poll return envelope and forward it by registered mail to the returning officer.

Registered mail

(4) The poll clerk or other person authorized to personally deliver the envelopes to the returning officer shall do so forthwith and shall take before him the prescribed oath and any candidate or scrutineer is entitled to be present when the envelopes are so delivered to the returning officer.

Delivery to be forthwith

RECEIPT OF POLL RETURN ENVELOPE BY RETURNING
OFFICER

R.O. to
seal poll
return
envelope

63. Immediately on the receipt of a poll return envelope, without effacing or covering any seals already affixed to it, the returning officer shall affix a seal prescribed by the Chief Election Officer in such a way that the envelope cannot be opened without the seal being broken and shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it.

OFFICIAL TABULATION

Conduct of
official
tabulation
by R.O.

64.—(1) The returning officer, at the place, day and hour stated in his notice of poll shall, in the presence of the election clerk and any candidate or candidate's delegate or scrutineer present, conduct the official tabulation by adding up the votes given for each candidate as taken from the official statements of the poll contained in the special envelopes returned to him or from such other sources as may be available to him but without opening any of the sealed envelopes containing ballots.

Adjournment
of official
tabulation

(2) The returning officer may adjourn the official tabulation proceedings to a future day and hour and so on from time to time but not in the aggregate to exceed fourteen days,

- (a) if any of the poll return envelopes or official tabulation envelopes have not been returned by the day fixed for the official tabulation;
- (b) if any deputy returning officer has not enclosed in the envelopes referred to in clause (a) the official statement of the ballots counted by him as required by this Act; or
- (c) if for any cause the returning officer cannot ascertain the number of votes given for each candidate.

Procedure
when poll
envelopes
lost,
statements
not available,
etc.

65. If, on the fifteenth day after the day fixed for the official tabulation,

- (a) any of the poll return envelopes are known to be lost or destroyed or for any reason have not been received; or
- (b) any statements or certificates of the ballot count at any polling places are not available and copies of them cannot be procured,

the returning officer shall ascertain, by such evidence or documents verified by declaration as he is able to obtain, the total number of votes given for each candidate at the several polling places and may summon any poll official, scrutineer or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents and the returning officer shall notify the candidates of the intended proceedings and may examine any person so summoned respecting the matter in question.

66.—(1) At the close of the official tabulation, or hearings in the case of missing envelopes or statements, the returning officer shall forthwith declare to be elected the candidate having the largest number of votes.

Declaration
of result

(2) If an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared to be elected, the returning officer shall give the casting vote.

Casting
vote

EFFECT OF IRREGULARITIES

67. No election shall be declared invalid,

Irregularities
not affecting
result

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the ballots or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the outcome of the election.

RECOUNT

68. Notice in writing of an application to be made under subsection 70 (1) shall be given forthwith by the applicant personally or sent by registered mail to the Chief Election Officer, the returning officer and election clerk, and each candidate in the electoral district.

Notice

Interpretation

69.—(1) In this section and in sections 70 to 80, unless otherwise stated, “judge” means the judge of the county court of the county or of the district court of the provisional judicial district in which the electoral district or any part of it is situate and, where there are two or more judges, the senior judge or, in the case of illness or absence of the senior judge or where the senior judge requests him to act, another judge of the court.

What judge to hold recount when district in two or more counties

(2) Where the electoral district comprises parts of two or more counties or provisional judicial districts any application shall be to and the recount shall take place before the judge of the court of the county or provisional judicial district having the larger or largest population according to the last federal census.

Where recount may be had

70.—(1) For the purpose of determining the candidate who obtained the highest number of votes and within the four days, Sunday being excluded, following the official tabulation made by the returning officer, a judge may appoint a time and place to recount the votes cast at the election in the electoral district upon the application of a candidate or elector if it is made to appear by affidavit that,

- (a) a deputy returning officer has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) the returning officer has improperly tabulated the votes.

Security for costs

(2) An application under subsection (1) shall be accompanied by a receipt showing that there has been deposited with the clerk of the county or district court, as security for costs in connection with the recount, the sum of \$200 or money order or cheque in that amount drawn upon and accepted by a chartered bank or trust company doing business in Ontario.

Notice

71. Where an application for a recount is refused by the judge, notice of such refusal shall be given forthwith by the clerk of the court to those persons mentioned in section 68.

Notice of time and place of recount

72.—(1) At least two days notice in writing of the time and place appointed for the recount by the judge shall be given forthwith by the clerk of the court to those persons mentioned in section 68 in such manner as the judge directs.

Presence of clerk of court

(2) The judge may require the clerk of the county or district court to be present at the time and place appointed.

(3) The returning officer and the election clerk shall be present at the recount and each candidate is entitled to be present and to be represented by counsel and to have present and be represented by such scrutineers as are permitted by the judge, and except by such permission no other person shall be present.

Who to be present at recount

(4) The returning officer and the election clerk shall attend at the recount with all the poll return envelopes received from the deputy returning officers and the original statements of the poll which shall continue in the custody of the returning officer and he is responsible for them subject to any direction given by the judge.

Documents to be produced at recount

(5) At the time and place appointed, the judge shall proceed to make the recount from the original statements of the poll or have opened the sealed envelopes containing,

Procedure by judge

- (a) the ballots that have been counted for each candidate;
- (b) the ballots rejected as to marking; and
- (c) the ballots unmarked by any voters,

and may have opened the sealed envelopes containing,

- (d) the cancelled ballots;
- (e) the declined ballots; and
- (f) the unissued ballots.

73. The judge shall conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll.

Rules to govern judge at recount

74.—(1) If any person requests him to do so, the judge shall write the poll number on the back of and initial any disputed ballots and seal them in a separate envelope.

Distinguishing disputed ballots

(2) Upon the completion of the recount, except as provided by subsection (1), the judge shall have sealed up all the ballots in their original envelopes and all the original statements in a separate envelope clearly marked as to its contents.

Sealing up ballots at close of recount

75.—(1) Where a poll return envelope used at a polling place was not available to the returning officer when he made his decision in respect of the number of votes given for a can-

Review of decision of R.O. when documents missing

didate or where the proper statement was not found in the official tabulation envelope, the judge shall, if necessary or required, review the decision of the returning officer.

Powers of judge

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer.

When judge to certify result of recount

76.—(1) The judge shall certify in writing to the returning officer the result of the recount unless, during the two days following completion of his recount, Sunday being excluded, the judge receives a notice of appeal as provided in section 79.

Declaration of result

(2) Upon receipt of the judge's certificate, the returning officer shall then declare the candidate having the largest number of votes to be elected but in the case of an equality of votes, the returning officer shall give the casting vote.

Costs

77.—(1) The costs of the recount, including the costs of the returning officer and the election clerk, are in the discretion of the judge who may, subject to subsection (3), order by whom, to whom, and in what manner they shall be paid.

Taxing and allowing costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs in respect of proceedings in the Supreme Court.

Where judge makes no provision re costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Deposits, disposal of

78. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the court of the county or judicial district upon the judge's order for the balance.

APPEAL FROM DECISION ON RECOUNT

Appeal from decision of judge

79.—(1) Any party may appeal from the decision of the judge who conducted the recount by giving notice in writing within two days after the completion of the recount to the other parties concerned and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of notice of appeal

(2) The notice may be served upon the other parties personally, or upon the solicitor who acted for him upon the

recount by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

(3) Where the appeal is limited, the judge who conducted the recount shall forward, in the envelope as provided for in subsection 74 (1), the ballots that are the subject of appeal together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) The judge who conducted the recount shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Allowing copy of certificate of judge

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appointment for hearing of appeal

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his decision to the judge who conducted the recount, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Procedure on hearing of appeal, certificate of result

(7) The judge of the Supreme Court may direct by whom and to whom the cost of the appeal, including the costs of the returning officer and the election clerk, shall be paid.

Costs of appeal

(8) The judge of the Supreme Court shall tax the costs of the appeal.

Taxing and allowing costs

(9) Where the judge of the Supreme Court makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Idem

ELECTION RETURN

80.—(1) If a candidate has been declared elected by the returning officer as provided by section 28 or 30, or if the returning officer has received from a judge the certificate of the result of a recount or if by the seventh day following the completion of the official tabulation the returning officer,

When return to be made

- (a) has not received notice to attend before a judge for a recount; or
- (b) has received notice from a judge that a recount has been refused,

the returning officer shall send by registered mail, the writ with his dated and signed return to the Chief Election Officer that a candidate has been elected by acclamation or that the candidate having the largest number of votes has been duly elected and shall forward a copy of his return to each candidate.

Report
by R.O.

(2) The returning officer shall include with his return to the Chief Election Officer a report of the proceedings at the official tabulation making any observations he thinks proper as to the state of the poll return envelopes or the want of any statement of the ballots counted and the mode by which he ascertained the votes given for each candidate under section 65, if applicable.

Declaration
by R.O.

(3) The returning officer shall forthwith make the prescribed affidavit after sending his return, and it shall be sent forthwith to the Chief Election Officer.

Application
to compel
R.O. to add
up votes,
make return,
etc.

81.—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

R.S.O. 1980,
c. 224

and the person aggrieved or the Chief Election Officer or any elector applies under the *Judicial Review Procedure Act* for an order commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

Application
of
R.S.O. 1980,
c. 223

(2) In other respects the *Judicature Act* and the rules of court made thereunder apply to such application.

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer. Other rights and remedies

82. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected. Notice of return in Ontario Gazette

DISPOSITION OF ELECTION DOCUMENTS AND MATERIAL

83.—(1) Forthwith after making his return, the returning officer shall arrange for shipment in the prescribed manner to the Chief Election Officer of all envelopes returned to him by the deputy returning officers, and all documents, papers, and materials in his possession relating to the conduct of the election but excluding those related to enumeration which shall be destroyed. Shipment to C.E.O. of election documents

(2) The returning officer shall transmit all election material to the Chief Election Officer in boxes or packages marked "Used" or "Unused" and secured and sealed with the prescribed seals and the returning officer shall endorse on each box or package of used material a description of the contents, the date of the election and the name of the electoral district to which they relate. Endorsement thereon

84.—(1) The Chief Election Officer shall retain in his possession the used documents transmitted to him by the returning officer under section 83 for at least one year, and if the election is contested, then for one year after the termination of the contestation. How long to be retained

(2) If notice is served on the Chief Election Officer under subsection 98 (6) or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED". When documents not to be destroyed

85.—(1) All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word. Inspection of documents

Inspection
of ballots
only under
order of
judge

(2) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

When order
to be
granted

(3) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of an action questioning an election or return.

Conditions
of order

(4) The order may be made subject to such conditions as the judge thinks proper.

Where
inspection
takes place

(5) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key.

Evidence as
to
documents,
etc.,
in certain
cases

86. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

Inspection of
documents
under
order of
committee of
Assembly

87. Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto.

Report re
conduct of
election

88. The Chief Election Officer, in addition to any other requirements of this Act in respect of the tabling of the results of an election, shall report to the Assembly through the Speaker whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act.

CORRUPT PRACTICES AND OTHER OFFENCES:
PENALTIES AND ENFORCEMENT

89. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more than once; or
- (c) votes in an electoral district or polling division other than the one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

90. Every person who,

Improper
voting by
proxy, etc.

- (a) appoints a proxy for reward or remuneration;
- (b) induces or procures any elector by undue influence to appoint a voting proxy to vote at an election;
- (c) unduly solicits or attempts to solicit from an elector an appointment as a voting proxy to vote at an election;
- (d) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;
- (e) knowingly appoints more than one person as a voting proxy; or
- (f) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or had reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is no longer entitled to vote or is dead,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

91. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a

Wilful
miscount
of ballots

false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Neglect
of duties

92. Every returning officer, election clerk, revision assistant, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
relating to
ballot papers

93. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) without authority, places in a ballot box anything other than an official ballot;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or packet of ballots provided for use at, in use, or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (g) being authorized by the returning officer or Chief Election Officer to print the ballots for an election, prints more than he is authorized to print; or
- (h) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

94. Every person who knowingly furnishes false or misleading information to a returning officer or to any person who by this Act is authorized to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

95. Every person who,

Inducing unqualified person to vote, etc.

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

96. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

General offence

97.—(1) Where a candidate at an election is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council for eight years following the date of the official return.

Disqualification of candidates guilty of corrupt practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1).

Limitation

CONTESTED ELECTIONS

98.—(1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly or whether or not any person is guilty of a corrupt practice shall be tried and determined by an action commenced by issuing a writ in the Supreme Court.

Validity of election, determination by action

(2) Where the Supreme Court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 89 to 97.

Penalties for corrupt practice

(3) A candidate at an election or any elector qualified to vote at an election or the Chief Election Officer, if he considers that it is in the public interest that an action be commenced, may commence an action.

Who may commence action

Time for commencing action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election return, but this subsection does not apply to the Chief Election Officer who may commence an action under this section at any time.

Local registrar to notify Registrar

(5) Upon receipt of a writ of summons, the local registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

Registrar to notify C.E.O.

(6) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this section by anyone other than the Chief Election Officer.

C.E.O. to notify Assembly and returning officer

(7) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication of notice by returning officer

(8) The returning officer, after receipt of a notification under subsection (7), shall forthwith publish a notice thereof in the prescribed form once in a newspaper having general circulation in the electoral district.

Practice and procedure

99.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to an action commenced under section 98.

Judge without jury

(2) The action shall be tried by a judge without a jury.

Intervention in action by C.E.O.

100.—(1) The Chief Election Officer, following receipt of the notice under subsection 98 (6), may apply to a judge of the Supreme Court, or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Notice of application to be filed and served

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Where leave granted

(3) If the judge grants leave to intervene, he shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to subpoena witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action.

101.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the election officer incurred in the publication of notices in the electoral district in respect of the writ of the action or proceedings therein.

Security
for costs

(2) The security shall be in the amount of \$2,000 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.

Idem

102. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under section 98 and an action may be commenced in the same manner as if the member elected had not disclaimed.

Disclaimer
not to affect
action
R.S.O. 1980,
c. 235

103.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Abatement
of action

(2) The abatement of an action does not affect any liability for costs previously incurred.

Liability
for costs

(3) On the abatement of an action, notice of the abatement shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be substituted as the sole plaintiff.

Substitution
of plaintiff

104. Where a plaintiff is not qualified to be a plaintiff in an action under section 98, the action shall not on that account be dismissed if within such time as a judge of the Supreme Court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.

Substitution
for
unqualified
plaintiff

105.—(1) If, before or during the trial,

(a) the defendant dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the defendant gives notice to the court that he does not intend to oppose, or further oppose the action,

Death of
defendant,
etc., at
or before
trial

notice of such event shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district.

Substituted
as further
defendant

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment
of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice
of intention
not to
oppose
given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly.

Declaration
that election
void

106.—(1) Where it is determined that the successful candidate is guilty of a corrupt practice, the court may declare his election void.

Unseating
and seating
of another
candidate

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person was elected, that he be admitted to take his seat in the Assembly or, if it is determined that no other person is elected, the court may provide for the holding of a new election.

Where result
of election
affected

(3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and provide for holding a new election.

Unseating of
disqualified
person

(4) Where it is determined that a person elected has become disqualified or has forfeited his seat, the court may order that he be removed from office and provide for the holding of a new election.

Where act or
omission
affects
result of
election

(5) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and provide for holding a new election.

(6) Where a new election is ordered, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$15,000 per candidate.

Compensation of candidate where election void

(7) The Registrar of the Supreme Court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly.

Judgment to Legislative Assembly

107.—(1) If the court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Where election set aside and appeal entered

(2) In the cases to which subsection (1) applies, where an appeal is entered, the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court.

Notice of appeal to Clerk

108. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal.

Time for issue of writ for new election

109.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

Appeals to Court of Appeal

(2) The Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court of Appeal as speedily as practicable.

Setting down for hearing, etc.

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment or new trial

Appeal from
decision on
new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section.

Inquiry as
to extensive
corrupt
practices

110. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

ELECTION FEES AND EXPENSES

Regulations

111. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 77 and 79.

Payment of
expenses
of Act

112.—(1) The fees and expenses to be allowed to the election officers, returning officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Premises and
equipment

(2) The Chief Election Officer may lease such premises and acquire such equipment and supplies as are necessary to properly carry out his responsibilities under this Act.

Clerical and
technical
assistance

(3) The Chief Election Officer from time to time may appoint such persons having technical or special knowledge of any kind to assist the Chief Election Officer for a limited period of time, or in respect of a particular matter.

Accountable
warrants

(4) For the purpose of providing the funds required under this section, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts and
audit

(5) The sums paid out under this section shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the

same person, unless the Lieutenant Governor in Council otherwise directs.

(6) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor.

Audit by
Provincial
Auditor

OFFICE OF THE CHIEF ELECTION OFFICER

113.—(1) Subject to the approval of the Board, the Chief Election Officer may employ such persons on his permanent staff as are necessary in the performance of his duties and for the efficient and proper operation of his office and may, for such employees, establish job classifications, and may determine the salary of the Assistant Chief Election Officer and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees on the permanent staff of his office and the Chief Election Officer shall present annually to the Board estimates of the sums of money that will be required for these purposes.

Staff

(2) The Board shall review and may alter as it considers proper the estimates referred to in subsection (1), and the chairman of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review.

Review of
estimates
by Board

(3) The moneys required for the purposes of this section shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

114.—(1) Every employee of the office of the Chief Election Officer, before performing any duty as such, shall take and subscribe the prescribed oath of office and secrecy and, if required by the Chief Election Officer, the prescribed oath of allegiance.

Oath of
office and
secrecy and
oath of
allegiance

(2) The Chief Election Officer may require any person appointed to assist the Chief Election Officer for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths referred to in subsection (1).

Idem

(3) A copy of each oath administered to an employee of the office of the Chief Election Officer under subsection (1) shall be kept in the file of the employee in the office of the Chief Election Officer.

Record of
oaths

Cause for
dismissal

(4) The failure of an employee of the office of the Chief Election Officer to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal.

Benefits
R.S.O. 1980,
c. 418

115.—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Chief Election Officer, the Assistant Chief Election Officer, and to the full-time permanent and probationary employees of the office of the Chief Election Officer and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Chief Election Officer or any person authorized in writing by the Chief Election Officer may exercise the powers and duties of a deputy minister under that Act in respect of such benefits.

Super-
annuation
benefits
R.S.O. 1980,
c. 419

(2) The *Public Service Superannuation Act* applies to the full-time permanent and probationary employees of the office of the Chief Election Officer as though the office of the Chief Election Officer were a commission designated by the Lieutenant Governor in Council under section 28 of that Act and to the Chief Election Officer and Assistant Chief Election Officer as though they were members of such a commission who held positions designated by and whose requests for such designations had been approved by the Lieutenant Governor in Council under section 28 of that Act and all credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the office of the Chief Election Officer and of the Chief Election Officer and the Assistant Chief Election Officer accumulated under that Act immediately before this Act comes into force are preserved and continued in accordance with that Act.

Conduct
and
discipline

116.—(1) The Chief Election Officer may make orders and rules for the conduct of the internal business of the office of the Chief Election Officer and, after a hearing, may suspend, demote or dismiss any employee of the office for cause.

Hearing
R.S.O. 1980,
c. 418

(2) The provisions of the *Public Service Act* and the regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Chief Election Officer is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an

employee of the Office, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister.

(3) A decision of the Chief Election Officer to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to him, to the Public Service Grievance Board established under the *Public Service Act*.

Appeals

R.S.O. 1980,
c. 418

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Chief Election Officer and to the appellant.

Board
authorized
to hear
appeals

MISCELLANEOUS

117. Section 6 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. The persons qualified to sit and vote as members of the Assembly are any persons of the full age of eighteen years who are Canadian citizens resident in Ontario and not disqualified by this or any other Act from election to the Assembly.

Qualification
of members

118. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

119.—(1) This Act, except section 117, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 117 comes into force and has effect on the day after the day the Legislature is dissolved or ended by the effluxion of time, where the day of dissolution or ending falls after the 1st day of July, 1986.

Idem

120. The short title of this Act is the *Election Act, 1984*.

Short title

Bill 17

*(Chapter 54
Statutes of Ontario, 1984)*

An Act to revise the Election Act

The Hon. T. L. Wells
Minister of Intergovernmental Affairs

<i>1st Reading</i>	March 29th, 1984
<i>2nd Reading</i>	December 4th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

Interpretation

1.—(1) In this Act,

- (a) “advance poll” means a poll held under section 44;
- (b) “ballot” means a ballot used for the conduct of an election;
- (c) “Board” means the Board of Internal Economy referred to in section 84 of the *Legislative Assembly Act*;
- (d) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (e) “corrupt practice” means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;
- (f) “election” means an election of a member or members to serve in the Assembly;
- (g) “elector” means a person who is entitled under this Act to vote at an election to the Assembly;
- (h) “electoral district” means an electoral district as set out in the *Representation Act*;
- (i) “general election” means an election in respect of which election writs are issued for all electoral districts;
- (j) “polling division” means a polling division established by the returning officer in accordance with this Act;
- (k) “polling list” means the list of electors furnished to a deputy returning officer by the returning officer in accordance with this Act;

R.S.O. 1980,
c. 235

R.S.C. 1970,
c. C-34

R.S.O. 1980,
c. 450

(l) "prescribed" means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;

(m) "registered candidate" means a candidate registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

(n) "registered party" means a political party registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;

(o) "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which, whenever he is absent, he has the intention of returning, subject to the following rules:

1. The place where a person's family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
 3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
 - i. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
 - ii. he has no quarters in any other electoral district to which he might at will remove;
- (p) "voter" means an elector who has appeared at a polling place and has accepted a ballot for marking which has been placed in the ballot box or has declined his ballot and so declared.

Idem

(2) In this Act, words importing the masculine gender only include females as well as males, and the converse.

TIME

References to time

2. Any expression of or reference to time in this Act refers to the time that is in effect locally, that is, either standard time or daylight saving time, as the case may be.

OATHS

Oaths and statutory declarations, who may take

3.—(1) Except where otherwise provided, an oath or statutory declaration for the purposes of this Act may be taken by a returning officer, election clerk, revision assistant, justice of the peace, a commissioner for taking affidavits or a notary public and for election purposes, deputy returning officers and poll clerks are empowered to take such oaths or declarations at the poll.

No charge for taking oath or declaration

(2) Every person taking an oath or statutory declaration under or for the purposes of this Act shall do so gratuitously.

ADMINISTRATION

Appointment of C.E.O. and A.C.E.O.

4.—(1) The Lieutenant Governor in Council, on the address of the Assembly, shall appoint, as an officer of the Assembly, a Chief Election Officer, who shall be responsible for the administration of this Act and the Lieutenant Governor in Council may appoint, as an officer of the Assembly, an Assistant Chief Election Officer.

Remuneration of C.E.O.

(2) The Chief Election Officer shall be paid such salary as may be determined by the Lieutenant Governor in Council.

Salary of C.E.O. paid out of Consolidated Revenue Fund

(3) The salary of the Chief Election Officer shall be charged to and paid out of the Consolidated Revenue Fund.

Powers and duties of C.E.O.

(4) The Chief Election Officer shall consult with, advise and supervise the returning officers and election clerks in the performance of their duties, and may visit in person and consult with the deputy returning officer and poll clerk at any polling location.

Powers and duties of A.C.E.O.

(5) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the same powers and shall perform the same duties as the Chief Election Officer.

(6) If at any time subsequent to the issue of the writs for an election the office of Assistant Chief Election Officer is vacant and if the Chief Election Officer is absent or through illness is unable to perform the duties of his office or if the office is vacant, the Lieutenant Governor in Council may appoint some person as Acting Chief Election Officer to hold office during such period of time as is specified in the appointment and the Acting Chief Election Officer shall act in the place of the Chief Election Officer and while so acting possesses the same powers and shall perform the same duties as the Chief Election Officer.

Appointment
of Acting
C.E.O.

(7) Where in the opinion of the Chief Election Officer, by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under this Act, he may make such appointments or give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to the candidates affected.

In cases of
emergency,
etc.

(8) The Chief Election Officer may delegate in writing to any officer on his staff authority to exercise any power and perform any duty, other than those mentioned in subsection (7), assigned to him by this Act.

Delegation

(9) The Chief Election Officer shall prescribe the forms for use under this Act.

Forms

(10) The prescribing of forms under subsection (9) or the exercise of any power or the performance of any duty by the Chief Election Officer that he is authorized or required to exercise or perform under this Act shall be deemed to be an act or acts of an administrative nature.

Adminis-
trative
in nature

5.—(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

Persons
excluded
from being
returning
officers,
etc.

1. Judges of federal or provincial courts.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Executive Council.
4. Members of the Parliament of Canada or of the Assembly.
5. Persons who have served as members of the Assembly in the session next preceding the election.

6. Persons who have at any time been found guilty of a corrupt practice.

Validity of election not affected

- (2) A contravention of this section does not affect the validity of the election.

EMPLOYEES SERVING OR VOTING AT AN ELECTION

Leave to be granted to employee to serve

- 6.—(1) Every employer shall, on request made not later than seven days before the time required, grant leave to an employee who has been appointed by a returning officer to serve as a poll official to enable him to perform his duties and the employer may not dismiss an employee who has been so appointed.

Remuneration

- (2) The employer is not required to remunerate his employee for any leave granted under subsection (1), but such leave shall not be subtracted from any vacation entitlement.

Employees to have three consecutive hours for voting

- (3) Every employee who is qualified to vote shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of voting and, if the hours of his employment do not allow for three consecutive hours, he may request that his employer allow him such additional time for voting as may be necessary to provide those three consecutive hours and the employer shall grant the request.

Deduction from pay prohibited

- (4) No employer shall make any deduction from the pay of any employee or impose upon or exact from him any penalty by reason of his absence from his work during the consecutive hours that the employer is required to allow him under subsection (3).

Time off best suiting convenience of employer

- (5) Any time off for voting as provided in subsection (3) shall be granted at the time of day that best suits the convenience of the employer.

RETURNING OFFICERS

Appointment of R.O.

- 7.—(1) The Lieutenant Governor in Council shall appoint a returning officer for each electoral district.

Qualifications of R.O.

- (2) A returning officer must be of voting age, a Canadian citizen and resident in Ontario.

Refusal or incapacity to act

- (3) If the person appointed as returning officer under subsection (1) dies, refuses to act, is incapacitated or resigns in accordance with subsection (9) or is discharged under subsection (10) or (11), some other person may be appointed by the Lieutenant Governor in Council as returning officer.

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Notification
of
appointment

(5) Every returning officer immediately upon receiving notice of his appointment shall take the prescribed oath, faithfully to perform his duties without partiality, fear, favour or affection.

Oath
of R.O.

(6) Subject to the direction of the Chief Election Officer, every returning officer shall provide for such clerical and other assistance as is necessary in the performance of his duties.

Clerical
and other
assistance

(7) A returning officer shall consult with, advise and supervise the deputy returning officers and poll clerks in the performance of their duties and he or his election clerk or his delegate may visit and consult with the deputy returning officer and poll clerk at any polling location in the electoral district.

Powers and
duties of
R.O.

(8) A returning officer shall comply with any oral or written instruction received from the Chief Election Officer.

Instructions
from C.E.O.

(9) A returning officer who is appointed under this Act shall continue in office as returning officer for the electoral district until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection (10) or (11).

Term of
office

(10) The Lieutenant Governor in Council may remove from office any returning officer who,

Removal
from
office

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

(11) The Chief Election Officer may, at any time during an election period, remove from office any returning officer who, in the opinion of the Chief Election Officer, fails to discharge competently his duties, or any of them, under this Act.

Idem

(12) No person shall obstruct or interfere with the returning officer or his staff or contrive any hindrance to the exercise of their rights or the performance of their duties under this Act.

Obstruction

ELECTION CLERK

8.—(1) Forthwith upon his appointment, the returning officer may appoint in writing a person who is of voting age, a

Election
clerk

Canadian citizen and resident in Ontario to be his election clerk but if upon receipt of a writ of election no person has been appointed, the returning officer shall immediately make the appointment.

Relatives

(2) No person who is a child, grandchild, brother, sister, parent, grandparent or the spouse of the returning officer shall be appointed as election clerk without the prior approval of the Chief Election Officer.

Appointment
of new
election
clerk

(3) The returning officer at any time and for any reason may appoint in writing a new election clerk in the place of the person previously appointed.

Duties

(4) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or is disqualified or refuses or is unable to perform his duties during an election and has not been replaced, shall act in his stead as the returning officer.

Oath
of election
clerk

(5) The election clerk before entering upon his duties shall take the prescribed oath.

DATES FOR CLOSE OF NOMINATIONS AND POLLING

Close of
nominations
and election
day

9. When an election is to be held, the Lieutenant Governor in Council may appoint and proclaim a day,

(a) for the close of nominations and the grant of a poll where required, which day shall be a Thursday, that is not more than sixty and not less than twenty-three days after the date of the writs of election; and

(b) for the taking of a poll, which day shall be the Thursday, that is the fourteenth day after the grant of a poll, unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in that case the day fixed for the poll shall be Friday of the same week.

R.S.O. 1980,
c. 219

WRITS

Writs to
bear same
date

10.—(1) The writs for a general election shall all be dated on the same day and shall be addressed to the returning officers.

Writs to state
nomination
and
polling days

(2) A writ of election shall state the respective days for the close of nominations and for the polling, if required, and is returnable forthwith after the election.

(3) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt. Endorsement
on writ

(4) If a writ for an election has been issued to a person in whose stead a new returning officer has been appointed under subsection 4 (7) or under subsection 7 (3), a new writ may be issued or the new returning officer or the election clerk, if applicable, may act under the writ already issued and the validity of the proceedings prior to the new person acting may not be questioned but the new or acting returning officer may appoint a new election clerk. Where
appointment
superseded

PROCLAMATION

11.—(1) Forthwith after receipt of the writ of election, the returning officer shall by proclamation, declare, Proclamation
by returning
officer

- (a) the dates, place and times during which the list of electors may be revised;
- (b) the date, place and time fixed for the close of nominations of candidates and for the granting of a poll, if required; and
- (c) the days and hours fixed for holding the advance polls and the general poll.

(2) The returning officer shall cause the proclamation to be printed and copies to be posted in conspicuous places on public or private property in the electoral district and the Chief Election Officer or the returning officer may arrange for the proclamation to be published in a sufficient number of newspapers to provide coverage throughout the electoral district. Posting, etc.,
of
proclamation

POLLING DIVISIONS

12.—(1) The returning officer shall divide his electoral district into urban and rural polling divisions as directed by the Chief Election Officer and shall, on an annual basis or as directed by the Chief Election Officer, review his electoral district as to population distribution and shall, in collaboration with the clerk of each municipality contained within the electoral district, consider any changes to polling division boundaries. Polling
divisions

(2) Following any revision of boundaries as may be authorized by the Chief Election Officer, the returning officer shall prepare and submit to the Chief Election Officer one complete set of typed descriptions of the polling divisions established under subsection (1) together with a map or maps of Description
of polling
divisions

the electoral district boldly marked with the polling division boundaries and the number assigned to each polling division.

POLLING PLACES

Polling
places

13.—(1) Subject to subsection (5) and to section 14, the returning officer shall arrange for at least one polling place for each polling division in the most central or most convenient place for the electors, furnished with light and heat and such other accommodation and furniture as may be required, and if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling division, such as in the case of multiple polling places established at one location.

Union of
polling
divisions

(2) The returning officer may unite two or more adjoining polling divisions and provide one polling place for the united divisions.

Location
of polling
places

(3) The poll may be situated in any public building or on private property and shall so far as is reasonably possible give access to wheelchairs.

When land-
lord, municipi-
pality, school
board, etc.,
to furnish
facilities

(4) Where, in the opinion of the returning officer, it is necessary to ensure to the maximum number of electors access to conveniently located polling places,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality;
- (c) a school board; or
- (d) a provincially funded institution,

shall, on the request of the returning officer made not less than fourteen days prior to polling day, make any premises under his or its control available as a polling location.

Where
polling places
not to be
R.S.O. 1980,
c. 244

(5) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional
polling
places

(6) The returning officer may provide such additional polling places in any polling division as are required having regard to the extent of the division, and the number of electors that may conveniently vote at one polling place and the returning officer shall determine how each such polling place shall be designated and an elector is entitled to vote only at the appropriate polling place.

(7) The returning officer shall prepare a list of the polling places within his electoral district showing the location of each by polling division number.

List of
polling
places

(8) Every elector shall have free access to the poll.

Access to
poll

HOSPITALS, RETIREMENT HOMES, NURSING HOMES AND OTHER INSTITUTIONS

14.—(1) Where an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or who are disabled, a hospital, a psychiatric facility, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside or where a retirement home of fifty beds or more is situate in an electoral district, a polling place shall be provided in such institution or upon the premises.

Polling places
in hospitals,
etc.

(2) Electors resident at an institution referred to in subsection (1) and who are entered in the list of electors may vote at such polling place and the returning officer shall arrange for the deputy returning officer and the poll clerk to attend upon the electors at their bedsides or otherwise for the purpose of receiving their ballots.

Voting

(3) On the completion of their canvass of the residents, the poll officials may continue the poll in one location until full opportunity has been given for all resident electors to vote.

Continuation
of poll

(4) Each candidate and one of his scrutineers may be present at such a polling place except when a ballot is marked under section 55.

Presence of
candidate
and
scrutineer

QUALIFICATION OF ELECTORS

15.—(1) In an electoral district in which an election to the Assembly is to be held, every person is entitled to vote who, on the general polling day,

Electors

- (a) has attained eighteen years of age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day;
- (d) resides in the electoral district; and
- (e) is not disqualified under this Act or otherwise prohibited by law from voting.

Re-enactment of (1) (b, c) (2) Clauses (1) (b) and (c) are repealed and the following substituted therefor:

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

Effective date of re-enactment (3) Subsection (2) does not come into force until the 1st day of July, 1986.

Evidence of person claiming to be elector (4) For the purposes of this section, a statutory declaration by a person claiming to be entitled to vote is *prima facie* proof of the facts declared to.

Requirement to receive ballot and vote (5) In order to receive a ballot and vote, an elector's name must appear in the list of electors or on a certificate to vote or have been lawfully added under the provisions of section 51.

PERSONS DISQUALIFIED FROM VOTING

Disqualification 16. Every person who is an inmate in a penal or correctional institution under sentence of imprisonment is disqualified from voting.

PROXIES

Appointment of proxy 17.—(1) Where an elector has reason to believe that he or she will be unable to vote at the advance poll or on polling day by reason of,

R.S.C. 1970,
c. N-4

- (a) being a member or the spouse or child of a member of the Canadian Forces as defined by the *National Defence Act*; or
- (b) being employed in the business of long distance transportation by railway, air, water or motor vehicle; or
- (c) business commitments or employer's directions; or
- (d) being a person who for medical reasons is physically incapable of attending a polling place; or
- (e) being a student duly registered at a recognized education institution; or
- (f) being a person participating in a job training or retraining program; or

- (g) being an inmate in a penal or correctional institution, not under sentence of imprisonment,

the elector may apply in writing to vote by proxy and appoint some other elector in the electoral district to vote for him or her at the election.

(2) No appointment of a proxy is valid unless it is made after the date of the issue of the writ of election and no such proxy remains in force after polling day. Term of appointment

(3) An elector may not act as proxy for more than two electors. Limitation

(4) On any day up to and including the day immediately preceding polling day, Certificate

- (a) a person appointed as a proxy voter under clause (1) (a), (b), (d), (e), (f) or (g); and

- (b) a person appointing a proxy under clause (1) (c) and the person appointed,

shall present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district.

(5) The returning officer or revision assistant shall examine the appointment and, on being satisfied as to the reason for a proxy being appointed and the eligibility and qualifications of the persons appointing the proxy and the person so appointed, shall require the latter to make a declaration in the prescribed form before issuing a certificate to vote. Idem

(6) A person appointed as a proxy voter must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote. Certificate to be presented

(7) An elector who has been appointed as a voting proxy is entitled to vote in his own right in his own polling division and, if within the same electoral district, may apply to the returning officer to have his name transferred to the polling list of the place where the proxy vote is to be cast or to have the name of the person appointing the proxy transferred to the polling list of his polling place. Proxy may vote in own right

(8) An elector who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the Cancellation of appointment

returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

Not more
than
one proxy

(9) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

ENUMERATION

Enumeration

18.—(1) Immediately following the issue of the writ for an election, the Chief Election Officer shall designate the period during which an enumeration of electors shall take place and shall advise the returning officer of the date on which the enumeration shall begin.

Nomination
of
enumerators

(2) After the issue of the writ and up to seventy-two hours before the enumeration is to begin,

- (a) the person who apparently will be the candidate at the election of the registered party represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators.

Selection
of
enumerators

(3) The returning officer shall select and appoint two persons of voting age as enumerators for each polling division, and with the approval of the Chief Election Officer may select persons at least sixteen years of age, and shall make such appointments as are necessary so that the enumerators for each polling division represent as far as possible two different political interests.

Idem

(4) If, seventy-two hours before the enumeration is to begin, sufficient names from which to select and make the appointment of the enumerators have not been received, the returning officer shall make such appointments as are necessary to enumerate the electoral district.

Candidates

(5) No person who apparently will be a candidate at the election shall be an enumerator.

(6) Forthwith upon their appointment and before commencing their duties, the enumerators shall take the prescribed oath and the returning officer shall supply each pair of enumerators with sufficient materials for the proper conduct of the enumeration.

Enumerators;
oath,
supplies

(7) The two enumerators shall act jointly and not individually in relation to each process in the preparation of the list of electors and in case of any disagreement they shall report the matter to the returning officer whose decision shall be final.

Enumerators
to act
jointly

(8) The enumerators shall conduct their enumeration between the hours of 9 a.m. and 9 p.m. and, unless they have obtained the information required or unless an occupant of any dwelling unit has stated that no other elector remains to be enumerated, they must make a second visit between the hours of 5 p.m. and 7 p.m. and, if necessary, a third visit may be made between the hours of 7 p.m. and 9 p.m.

Hours of
enumeration

(9) Each name and address obtained by the enumerators during their door-to-door canvass or as directed by the returning officer shall be entered on a record which shall be signed by both enumerators and a copy thereof left at each dwelling unit.

Enumerator's
record

(10) Where, after making the required number of visits as set out in subsection (8), the enumerators are unable to obtain the information necessary, they shall leave at such dwelling unit the prescribed notice of their inability to obtain information.

Notice of
inability
to obtain
information

(11) The enumerators shall at all reasonable times and upon producing proper identification have free access for the purposes of enumeration to the entrance door of each dwelling unit in any building having more than one dwelling unit.

Enumerators
to have
free access

(12) No person shall obstruct or interfere with the enumerators or contrive any hindrance in the exercise of their rights or in the performance of their duties under this Act.

Obstruction,
etc., of
enumerators

(13) The returning officer may at any time replace any enumerator by appointing another to act in his place and, upon receiving such notice in writing from the returning officer, the enumerator so replaced shall forthwith deliver to the returning officer all credentials, papers and materials which have been supplied.

Replacement
of
enumerator

(14) An enumerator who neglects, omits or refuses to perform any of his duties under this Act or who refuses to com-

Forfeiture
of right
to payment

ply with any direction in writing from the returning officer may forfeit his right to payment for any service or part thereof already rendered.

LIST OF ELECTORS

Preparation
of list of
electors

19.—(1) The enumerators, immediately after the completion of the canvass of their polling division, from their records shall prepare a list of electors legibly typewritten in the prescribed form,

- (a) under headings of thoroughfares by name and in numerical order of residence where such names and numbers are in effect;
- (b) under geographic area or municipal headings in alphabetical order by surname; or
- (c) as directed by the returning officer.

Delivery of
list to R.O.

(2) Not later than four days from the date of their appointment, the enumerators shall,

- (a) certify the total number of names contained in the list; and
- (b) unless otherwise directed by the returning officer, deliver the list to the returning officer together with all used and unused material.

Disposition
of list

(3) On receipt of and having accepted the list of electors from each pair of enumerators, the returning officer shall arrange for,

- (a) one copy of the list to be posted by the enumerators in urban areas in a conspicuous place in their polling division;
- (b) one copy of the list to be retained in the returning office;
- (c) one copy to be furnished as soon as possible to each candidate in the electoral district;
- (d) up to twelve copies of the list to be furnished to each constituency association or candidate in the electoral district; and
- (e) a notice of enumeration, including the poll location, to be mailed to each elector.

(4) Following preparation of the list of electors by the enumerators and up to and including the fourteenth day before polling day, any person who has knowledge of the fact that the name of an elector resident in an urban polling division has been omitted from the list, may so notify the returning officer.

Notification
of omitted
electors

(5) The returning officer may appoint pairs of special enumerators for the purposes of subsection (6) from among those who have already acted as such for the pending election or may appoint others in the manner provided by section 18.

Special
enumerators

(6) The returning officer, before the preparation of the polling lists, shall cause special enumerators to call once at the address of any elector referred to in subsection (4) and to enumerate such elector and any other electors at that address whose names were also omitted.

Enumeration

(7) On completion of the enumeration, the returning officer shall cause any names obtained under subsection (6) to be added directly to the list of electors compiled during the original enumeration or shall direct the special enumerators to prepare an additional list of electors by polling division number, in the prescribed form.

Addition to
list of
electors

(8) The returning officer shall supply to each candidate, on request, a copy of each list referred to in subsection (7).

Copies

COMPLAINT AGAINST NAME ON LIST

20.—(1) On any day up to and including the fourteenth day before polling day an elector may file with the returning officer a complaint, on the prescribed form, that the name of a person who should not be included, has been included in the list of electors.

Complaint
for wrongful
entry on list

(2) The returning officer, upon receipt of the complaint, shall send by registered mail to the person objected to at the address shown in the list and to such other address, if any, as may be mentioned in the complaint, a copy of the complaint along with a notice requiring such person or his representative to appear before the returning officer on a day to be named in the notice and a copy of the notice shall be given to the complainant.

Notice to
person
objected to

(3) On the day named in the notice and in the presence of any of the persons concerned with the complaint, the returning officer may hear an explanation by the person who filed the complaint as to the facts alleged and what is alleged by the

Hearing of
complaint

person or by the representative of the person against whom the complaint was made.

Decision

(4) The returning officer shall make such decision concerning the complaint as is warranted under the circumstances and that decision shall be final.

REVISION

Application for additions, corrections, etc., to list

21.—(1) Up to and including the day immediately preceding polling day, the returning officer shall consider all applications concerning the list of electors or the polling list with regard to the application for a proxy certificate, addition of a name, the correction of an error or the deletion of a name and his decision is final.

Revision assistants

(2) The returning officer may appoint his election clerk to assist him and, subject to the approval of the Chief Election Officer, may appoint additional revision assistants to act in the returning office or at other fixed locations and every such assistant shall have the same qualifications as the returning officer and the same powers at the revision as the returning officer.

Revising agents

(3) The returning officer may, subject to the approval of the Chief Election Officer, appoint two persons as revising agents for the purpose of enumerating qualified electors of a particular area, section or building containing multiple dwelling units within the electoral district who were missed by the enumerators.

Oath

(4) Every such assistant or agent appointed under subsection (2) or (3) upon being appointed shall take the prescribed oath.

Grounds must be sufficient

(5) Before making any addition, correction or deletion in the list of electors, the returning officer shall be satisfied that the applicant has provided sufficient grounds for the action requested and that the person appearing before him understands the effect of any statements made in the application.

Procedure where application refused

(6) If it appears to the returning officer that an application under subsection (1) should be refused, the decision shall be endorsed on the application along with his reasons and the applicant informed.

Irregularity not to affect result of election

(7) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election.

(8) Where the returning officer or his revision assistant does not understand the language spoken by an applicant or where the applicant is deaf, the applicant has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the applicant and the answers, but in the event of inability to secure an interpreter, the application may for the time being, be refused.

Interpreter where necessary

(9) The returning officer shall, on request made to him, provide to each candidate of a registered party a list of persons to whom a certificate to vote has been issued up to the time the request is made.

List of persons issued certificate

(10) A person added to the polling list under section 22 or 24 must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Certificate to be presented

(11) A person whose name appears in a list of electors and who wishes to have the entry related to him deleted, must appear before the returning officer and complete a declaration to that effect.

Deletion of name from list

ADDITIONS

22.—(1) Up to and including the day immediately preceding polling day, for the purpose of obtaining a certificate to vote, an elector whose name does not appear in the list of electors may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf and by statutory declaration substantiate his identity and qualifications as an elector.

Application for certificate to vote

(2) An elector acting on behalf of another under subsection (1) may do so for his child, grandchild, brother, sister, parent, grandparent or spouse but may act for only one additional person and a person who is not an elector may act for only one elector.

For whom elector may act

CORRECTIONS

23.—(1) The returning officer or his assistant, as set out in section 21, shall consider all applications for correction of mistakes in names or addresses in the list of electors and upon satisfactory evidence being furnished to him may make the necessary corrections.

Corrections to list

(2) A mistake in the name or the address of an elector shown in the polling list is not a ground for questioning the

Mistake in name, etc.

eligibility to vote of the elector, provided that at the time of voting the elector takes the prescribed oath, if required to do so by the deputy returning officer.

TRANSFERS

Change of residence

24.—(1) Up to and including the day immediately preceding polling day, an elector whose name appears on a polling list for the pending election and who has moved may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf to have his name included in the polling list for the polling division where he now resides.

Proxy voters, election officials

(2) Where an elector whose name appears on a polling list for the polling division where he resides and,

(a) has appointed a proxy voter whose name appears on a different list in the same electoral district; or

(b) has been appointed,

(i) to cast a proxy vote at a polling place other than his own but in the same electoral district, or

(ii) to act as a deputy returning officer, poll clerk or scrutineer at a polling place other than his own but in the same electoral district,

an application may be made to the revising official for a certificate to vote at the other polling place.

Notice of transfers

(3) The revising official whenever possible, shall advise the returning officer of the original electoral district, if applicable, or the deputy returning officer of the original polling place of any transfer made.

POLLING LISTS

Official polling list

25.—(1) The returning officer shall prepare the official polling list for each polling division by attaching to a copy of the original list of electors, a copy of any additional lists of electors prepared under his direction.

Copy to D.R.O.'s

(2) The returning officer shall certify and supply a copy of the official polling list to each deputy returning officer for use at the advance polls and on regular polling day.

CANDIDATES

26.—(1) Every person is qualified to be a candidate who, at the time of signing the consent to nomination, Who may be candidate

(a) is of voting age;

(b) is a Canadian citizen or other British subject;

(c) has resided in Ontario for the twelve months next preceding polling day; and

(d) is not disqualified by the *Legislative Assembly Act* or by any other Act. R.S.O. 1980,
c. 235

(2) Clauses (1) (b) and (c) are repealed and the following substituted therefor: Re-enactment
of (1) (b,c)

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

(3) Subsection (2) does not come into force until the 1st day of July, 1986. Effective
date of
re-enactment

(4) No person who has been engaged as a returning officer, election clerk, enumerator or revision assistant at the revision of any list of electors to be used at the election, is eligible as a candidate. Who may
not
be candidate

(5) No person who has been found guilty within eight years of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election. Idem

(6) A candidate may undertake any of the duties that his scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act. Right of
candidate
to undertake
duties of
scrutineer

CLOSE OF NOMINATIONS

27.—(1) The close of nominations of candidates shall be 2 p.m. of the day stated as such in the writ of election. Time for
close of
nominations

(2) One hour before the close of nominations, the returning officer shall make or cause to be made a pronouncement in the prescribed form and shall read or cause to be read publicly the writ of election. Procedure on
nomination
day

Separate
nomination
papers, etc.

(3) A candidate may be nominated in one electoral district only and each candidate shall be nominated by a separate nomination paper which shall include or be accompanied by his consent in writing to the nomination.

Contents of
nomination
papers

(4) The nomination paper of a candidate shall state his name and address of residence and shall be signed by, or accompanied by the signatures of at least twenty-five electors of the electoral district and an elector may sign the nomination papers of more than one candidate.

Deposit

(5) A deposit of \$200 in cash or by cheque made payable to the Chief Election Officer shall be handed to the returning officer at the time the nomination paper is filed.

Refund

(6) Where a candidate receives at least 10 per cent of the valid ballots cast at the election, the deposit under subsection (5) shall, in the case of a cash deposit, be refunded to the candidate and, in the case of a cheque, be refunded to the issuer of the cheque.

How name
to be shown
on ballot

(7) Subject to subsection (8) and to subsections 34 (2) and (5), at the time of filing his nomination papers, a candidate shall state in writing to the returning officer how he wishes his name to be shown on the ballot.

Similarity
of names

(8) Where the given names and surname requested to be shown on the ballot are identical or so nearly identical so as to create the possibility of confusion with the names requested to be shown on the ballot by another candidate whose nomination paper has already been submitted or certified, the returning officer shall immediately communicate the facts to the candidates and to the Chief Election Officer who shall consult with the candidates in question and resolve how each name is to be shown on the ballot, and the Chief Election Officer shall before 2 p.m. on the day following the day set for the close of nominations advise the returning officer how the names are to be shown on the ballot.

Registration
under
R.S.O. 1980,
c. 134

(9) The nomination paper shall include or be accompanied by either a statement by the candidate that he has filed, or an undertaking by the candidate that, prior to polling day, he will file an application for registration with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*.

When
nomination
papers to
be filed

(10) The nomination paper shall be filed with the returning officer at his office at any time during the seven days immediately preceding closing day or at any time up to the close of nominations on that day.

(11) Where the nomination paper is filed with the returning officer during the seven days immediately preceding, or not later than 11 a.m. of the closing day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Certificate
of R.O. as
to
regularity

(12) Where the nomination paper is filed with the returning officer after 11 a.m. of the closing day and before the time fixed for the close of nominations,

Nomination
paper

(a) the returning officer shall accept and examine the nomination papers; and

acceptance

(b) if on examination of the nomination paper it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the candidate and to the Chief Election Officer but shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day following, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

rejection

(13) It is not necessary for a candidate to be present when his nomination paper is filed with the returning officer.

Candidate
need not
be present

(14) The returning officer shall issue a receipt for any nomination paper accepted by him under subsections (11) and (12).

Receipt

28. If, at the close of nominations, only one candidate has filed a nomination paper, the returning officer shall close the election and declare such candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80.

Election by
acclamation

NOTICE OF POLL

29.—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes.

Grant of
poll

(2) The returning officer shall cause the prescribed notice of poll to be printed and the notice shall be posted in conspicuous public places in the electoral district and at least one copy shall be posted at each polling place on the days of the advance poll and the general poll.

Notice of
grant of
polls

WITHDRAWAL OF CANDIDATE

Withdrawal
of candidate
after
nomination

30.—(1) A candidate may withdraw at any time between filing his nomination paper and polling day by delivering to the returning officer the prescribed notice of withdrawal signed by himself in the presence of a subscribing witness.

Idem

(2) In the case of a candidate withdrawing after the close of nominations his deposit is forfeited and,

- (a) if there remains but one candidate, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80; or
- (b) if there remains two or more candidates and only if the ballots have been printed, the returning officer, if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted in a conspicuous place in every polling place in the electoral district, and any ballots cast for such candidate who has so withdrawn are void and shall be considered as rejected ballots.

DEATH OF CANDIDATE

Death of
candidate

31.—(1) If a candidate dies after being nominated and before the close of the poll, the returning officer shall suspend the election and the Chief Election Officer shall fix new days for the nomination of candidates and for polling in that electoral district but any certified nominations may, at the option of the candidate nominated, remain valid.

Return of
deposit on
death of
candidate

(2) The deposit of a candidate who dies before the close of the poll shall be returned to the personal representative of the candidate.

SCRUTINEERS

Appointment
of scrutineer

32.—(1) A candidate or a person designated in writing by him, which designation is filed with the returning officer, may appoint any person at least sixteen years of age to be a scrutineer for the candidate and to be present at any place at which a scrutineer may attend under this Act.

When
scrutineer
may not
challenge

(2) A scrutineer who is not an elector may not challenge the right to vote of any elector at a polling place.

(3) Not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll is open, and at the counting of the votes. Number of scrutineers in polling place

(4) Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. Non-attendance of scrutineers

BALLOT PAPER

33.—(1) The paper used for printing the ballots shall be as approved and ordered by the Chief Election Officer and shall be manufactured to contain a special thread or watermark so placed as to run through each ballot. Ballot paper

(2) The manufacturer of the paper shall make a declaration that none of the paper so manufactured will be supplied to any person other than the Chief Election Officer and upon delivery of the paper the Chief Election Officer shall cause the number of sheets received to be counted and a receipt issued to the manufacturer. Declaration by manufacturer

(3) The ballot paper shall be kept under lock and key in the custody of the Chief Election Officer. Custody of ballot paper

BALLOTS

34.—(1) All ballots shall be of the same description and as nearly alike as possible. Uniformity

(2) The names of the candidates shall be shown in capital letters on the ballot in order of their legal surnames, and, subject to subsection 27 (8), alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name, and at his request any sobriquet or an abbreviation or familiar form of a given name may be used in lieu of a candidate's legal given name or names. Form of ballot

(3) A circular space shall be shown on the ballot horizontally aligned with each candidate's name. Idem

(4) The circular spaces, numbers, names of the candidates and any other information required under subsection 27 (8) shall be the natural colour of the ballot paper and the remainder of the face of the ballot shall be black. Idem

Idem

(5) Subject to subsection 27 (8), there shall not be included with any candidate's name on the ballot any occupation, title, honour, decoration, degree, brackets or quotation marks.

Numbering of ballots

(6) The ballots shall be numbered consecutively on the stubs and shall be stapled or stitched into units as determined by the returning officer.

Printing of ballots

35.—(1) The Chief Election Officer or the returning officer shall cause to be printed on the approved paper a sufficient number of ballots for the election in the electoral district.

Printer's name, etc.

(2) The ballots shall bear upon the back the name of the electoral district, the date of polling and the name of the printer, and the printer shall provide to the returning officer the prescribed affidavit as to the number of sheets of ballot paper received and the disposition thereof including the total number of ballots printed and delivered to the returning officer.

Count of ballots and affidavit

(3) The returning officer shall immediately make a count of the ballots received from the printer and shall take the prescribed affidavit and forward it to the Chief Election Officer along with the affidavit referred to in subsection (2).

Supply to D.R.O.

36.—(1) The returning officer shall supply each deputy returning officer before the polling day with a ballot box, a certified copy of the polling list, the materials provided by the Chief Election Officer necessary for the proper conduct of the poll and a sufficient number of ballots for the electors at the polling place.

Record of quantity of ballots provided

(2) The returning officer shall specify in writing to each deputy returning officer the quantity of ballots provided and record their serial numbers and the record shall be forwarded to the Chief Election Officer with the other documents required to be forwarded at the close of the election.

Count of ballots by D.R.O.

(3) The deputy returning officer shall count and verify the quantity of ballots received from the returning officer and at the close of the poll forward a statement of such count to the returning officer along with the other poll documents and election material to be so forwarded.

BALLOT BOXES

Ballot boxes to be supplied

37.—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

(2) Every ballot box shall be so constructed and sealed that on polling day the ballots can be deposited therein but cannot be withdrawn without unlawfully unsealing the box or without evidence remaining of such tampering. How made

VOTING SCREENS

38.—(1) The returning officer shall furnish each deputy returning officer with at least two voting screens. Voting screens to be furnished

(2) The deputy returning officer shall ensure that the voting screens at the polling place are positioned so that electors may mark their ballots with maximum privacy and without other persons being able to see how they are marked. Privacy when marking ballots

(3) Except as provided by sections 14 and 55, not more than one elector shall be permitted to use a voting screen at any one time. One elector only at a time

POLL OFFICIALS

39.—(1) At least seven days before polling day, lists of names of electors in the electoral district who are not candidates may be furnished to the returning officer, Nomination of D.R.O. and poll clerk

(a) as potential deputy returning officers, by the candidate of the registered party represented by the government of the day; and

(b) as potential poll clerks, by the candidate of a different political interest, the candidate for which at the next preceding provincial election received the highest number of votes or the next highest number of votes, as the case may be.

(2) From the lists furnished to him as provided by subsection (1), the returning officer shall select and appoint a deputy returning officer and a poll clerk for each polling place so that they represent two different political interests. Appointment of D.R.O. and poll clerk

(3) If sufficient names from which to select and make the appointment of the poll officials have not been received, the returning officer shall make such appointments as are necessary. Insufficient nominations

(4) Deputy returning officers and poll clerks before acting shall take the prescribed oath and their appointment shall be endorsed upon or attached to the poll record. Oath

Duties of
poll clerk

(5) As directed by the deputy returning officer, the poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Forfeiture
of right to
payment

(6) Deputy returning officers or poll clerks who neglect, omit or refuse to perform any of their duties under this Act may forfeit their right to payment for any service already rendered.

Death or
absence of
D.R.O.

(7) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking a new oath.

TIME OF GENERAL POLL

Hours of
polling
generally

40.—(1) Except as provided by subsections (2), (3) and (4), the general polls at every election to the Assembly shall open at 9 a.m. and close at 8 p.m. of the same day.

In Central
Time Zone

(2) In an electoral district that lies entirely west of the meridian of 90° W. longitude the general polls shall open at 8 a.m. and close at 7 p.m. of the same day.

C.E.O. may
establish
different
hours

(3) The Chief Election Officer may at his discretion establish any period of eleven consecutive hours on the general polling day for voting in an electoral district or part thereof.

When
voting not
commenced
or
interrupted

(4) If for any reason, voting at a polling place is not commenced at the proper time or is interrupted during the polling hours, the Chief Election Officer shall be advised by the returning officer and at his discretion, the Chief Election Officer shall,

(a) extend the closing time; or

(b) resume the polling on the following day at 9 a.m. and continue the same from day to day if necessary, until the poll has been open with free access to the electors for eleven hours in total.

PRESERVATION OF THE PEACE

Assistance
by justices
and police
officers

41. A returning officer or deputy returning officer may require the assistance of justices of the peace, police officers and other persons to aid him in maintaining peace and order at the election and may appoint as many such other persons as he considers necessary.

SECURITY OF PROCEEDINGS

42.—(1) In addition to any elector or electors in the process of voting, except as provided by sections 4, 7, 14, 44 and 55, the only persons permitted to remain in a polling place during the time the poll remains open and at the counting of the ballots are the deputy returning officer, the poll clerk, the candidates and not more than one scrutineer for each candidate at any one time.

Who may be in polling places

(2) Every deputy returning officer, poll clerk, candidate or scrutineer authorized to attend at a polling place shall take an oath of secrecy.

Oath of secrecy

(3) No person shall attempt to obtain at a polling place information as to the candidate for whom an elector is about to vote or interfere or attempt to interfere with an elector in a polling place.

Interference with electors

(4) Subject to sections 14 and 55, an elector shall not display his ballot to any person so as to indicate how he has voted.

Elector not to display ballot

(5) No person shall, directly or indirectly, induce or attempt to induce an elector to display his ballot to any person so as to indicate how he has voted.

Inducing elector to display ballot

(6) No person shall communicate any information obtained at a polling place as to the candidate for whom an elector is about to vote or has voted or whether he declined to vote.

Communicating information as to how elector is voting

(7) In any legal proceedings no person may be compelled to state for whom he voted or whether he marked his ballot or not.

No person compellable to disclose his vote

VOTING AT ONE PLACE ONLY

43. If the name of a person entitled to vote is entered on the polling list for more than one polling division he shall nevertheless vote only at one polling place.

Person to vote in one division only

ADVANCE POLLS

44.—(1) For the purpose of receiving the votes of electors who expect to be unable to vote on polling day in the electoral district for which their names appear on the polling list or on certificates to vote, advance polls shall be open,

Advance polls

- (a) in an office of the returning officer, provided that the ballots have been printed, on the 12th, 10th, 9th, 8th, 6th and 2nd day preceding polling day; and
- (b) at designated other locations on the Thursday, Saturday and Monday immediately preceding polling day.

Advance
polling
places

(2) The returning officer shall provide as many advance polling places under clause (1) (b) as are approved by the Chief Election Officer and shall select locations which give access to wheelchairs.

Time of
poll

(3) The advance polls in an electoral district shall be open from 11 a.m. to 8 p.m. or during such hours as are determined by the Chief Election Officer.

Notice
of polls

(4) At least three days prior to the first advance poll day under clause (1) (a), the returning officer shall cause a notice of the days, times and locations of the advance polls to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Declaration

45.—(1) Every person offering himself as a voter at the polling place shall be required, before being allowed to vote, to take the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll.

List of
electors who
have voted

(2) Forthwith after the close of the poll each day, the deputy returning officer shall provide to the returning officer a list of the names, addresses and polling division numbers of all electors who have voted or forfeited their right to vote and the returning officer before polling day shall furnish every candidate in the electoral district with a copy of such list.

Noting other
D.R.O. lists

(3) The returning officer shall indicate in the polling list to be supplied to each deputy returning officer for polling day the name of each elector who at the advance poll has voted or forfeited his right to vote.

Candidates
and
scrutineers

(4) Candidates or their scrutineers are not entitled to be present when votes are cast at an advance poll held in the office of a returning officer.

Counting
of ballots

(5) On the general polling day, the deputy returning officer and the poll clerk shall, at the hour fixed for the closing of the general poll, and in the presence of such of the candidates or their scrutineers as are present, proceed to count the ballots cast.

(6) Except as in this section otherwise provided, the provisions of this Act relating to secrecy of proceedings, voting procedures, counting of the ballots and the reporting of the results apply with necessary modifications to voting under this section.

Application

(7) The vouching provisions of section 51 do not apply at an advance poll.

Vouching not to apply at advance poll

PROCEDURE AT THE POLL

46.—(1) The deputy returning officer and poll clerk shall attend at the polling place at least thirty minutes before the hour fixed for opening the poll.

Attendance of D.R.O. and poll clerk at polling place

(2) Any scrutineers present during the fifteen minutes before the opening of the poll are entitled to have the ballots counted in their presence and to inspect all other materials relating to the poll.

Counting ballots at opening of poll

(3) The deputy returning officer immediately before opening the poll shall show the empty ballot box to any persons present and shall then seal the box as prescribed by the Chief Election Officer in such manner as to prevent its being opened without breaking the seals.

D.R.O. to show box empty, then seal it

(4) Except as provided in subsection 14 (2) and subsection (5) of this section, the deputy returning officer shall then place and keep the ballot box on a desk, counter or table or otherwise position it above floor level in full view of all present and shall keep it sealed until the close of the poll.

Placement of ballot box

(5) The ballot box may be moved by the poll officials to facilitate voting by an elderly or disabled elector but where the box is so moved it may be accompanied by any scrutineer present and a record of any such action and any objection taken by a scrutineer shall be made in the poll record opposite the name of the elector.

When ballot box may be moved

47.—(1) Every elector upon entering the room or area where the poll is being held shall state his name and place of residence to the deputy returning officer, which particulars shall be entered in the poll record by the poll clerk.

Statement of name, etc., by elector

(2) Every elector who is entitled to vote shall receive from the deputy returning officer a folded ballot on the back of which the deputy returning officer has previously put his initials, so placed that when the ballot is refolded they can still be seen and upon the request of the elector, the deputy

D.R.O. to initial back of ballot

returning officer shall instruct the elector in the manner of marking and how to refold the ballot.

Where
oath
may be
required

(3) If a deputy returning officer has reason to believe that a person offering to vote is not an elector or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the list, or when requested by a candidate or a scrutineer who is an elector, the deputy returning officer shall administer the prescribed oath to the elector.

Where
elector
alleges he
has
been
personated

(4) If a person representing himself to be an elector applies for a ballot after another person has voted as such elector, he is entitled to receive a ballot after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer, and a note shall be made in the poll record to that effect and of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates.

Elector
refusing to
take oath

(5) An elector who has refused to take an oath when required so to do forfeits his right to vote.

Entry to be
made in
poll record

(6) The poll clerk shall indicate in the poll record opposite the name of each elector, as applicable, if an oath was administered or refused.

MARKING A BALLOT

Mode of
marking
ballot

48.—(1) The elector on receiving a ballot shall forthwith proceed to one of the voting screens and there, using a pencil or pen indicate the candidate of his choice by marking one of the circular spaces on the ballot with a cross or other mark in any colour.

Mode of
folding and
depositing
ballot

(2) The elector shall then refold his ballot so that the initials on the back are visible and hand it to the deputy returning officer who shall without unfolding it ascertain by examining his initials that it is the same ballot issued to the elector and shall then, in full view of all present, including the elector, place it in the ballot box, and thereupon the poll clerk shall indicate in the poll record that the elector has voted.

Elector to
leave polling
place after
voting

(3) An elector whose ballot has been placed in the ballot box shall be deemed to have voted and shall forthwith leave the polling place.

CERTIFICATE OF ERROR

49. The returning officer may certify for addition to the polling list, the name of any elector omitted in error, Certificate of error

- (a) upon the elector producing to the returning officer or to the deputy returning officer proof of enumeration; or
- (b) upon the returning officer being satisfied that such person was enumerated or was added at the revision,

and the returning officer shall furnish each candidate with a list of such certifications.

VOTING CERTIFICATES

50.—(1) An elector voting under the authority of a certificate issued by the returning officer or revision assistant shall surrender it to the deputy returning officer at the polling place before receiving a ballot. Surrender of certificate

(2) The deputy returning officer or poll clerk shall record in the poll record, opposite the name of the elector, the words "voted under certificate" and shall file the certificate in the envelope of election documents to be returned to the returning officer. Entry in poll record

VOUCHING

51.—(1) In a rural polling division, other than at an advance poll, an elector whose name was omitted from the polling list, may apply to the deputy returning officer to have his name added to the list and his name shall be added, Where elector's name omitted in rural polling division

- (a) if he takes the prescribed oath as to his eligibility to vote; and
- (b) if he is accompanied by an elector who is a resident in the same polling division and whose name is on the polling list and who vouches on oath that,
 - (i) he knows the person whose name has been omitted, and
 - (ii) he believes such person to be qualified to be entered on the list.

May vouch
for more
than one
elector

(2) An elector vouching, as provided by subsection (1), may do so for more than one elector.

Name to be
added to list

(3) The deputy returning officer after taking the prescribed oath shall cause the applicant's name to be added to the polling list and entered in the poll record with the words "vouched for" written thereafter.

Right to
vote

(4) The applicant, upon taking the oath and being vouched for, is entitled to vote.

BALLOT TAKEN FROM POLL

Electors not
to take
ballot from
polling
place

52. An elector who has received a ballot shall not take it out of the polling place and any elector who leaves without delivering the ballot to the deputy returning officer forfeits his right to vote and the deputy returning officer shall cause an entry to be made in the poll record that the elector took his ballot out of the polling place.

DECLINED BALLOT

Declined
ballot

53. An elector who has received a ballot and returns it to the deputy returning officer declining to vote, forfeits his right to vote and the deputy returning officer shall immediately write the word "declined" upon the back of the ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record that the elector declined to vote.

CANCELLED BALLOT

When ballot
may be
replaced

54. A ballot that,

- (a) has been improperly printed;
- (b) has been inadvertently dealt with in such manner that it cannot be used; or
- (c) has been issued to an elector who has marked it other than how he intended to mark it or for any reason objects to it and returns it to the deputy returning officer requesting another,

may be replaced with another ballot by the deputy returning officer who shall immediately write the word "cancelled" upon the back of the first ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record stating the reason for cancelling the ballot.

DISABLED ELECTORS

55.—(1) On the application of any elector who is unable to read or who is disabled and thereby prevented from voting in accordance with the other provisions of this Act, the deputy returning officer may assist the elector to the voting screen or if the elector making the application takes an oath as to his inability to vote without assistance, shall thereafter assist the elector at the voting screen by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Disabled elector

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of such elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the elector to the voting screen and there mark the elector's ballot for him.

Ballot marked by friend

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot was marked.

Declaration to be made by friend

(4) No person shall be allowed to act as the friend of more than one elector mentioned in subsection (1) at any polling place, other than a polling place established under section 14.

May act as friend once only

(5) The deputy returning officer shall enter in the poll record opposite the elector's name the reason why the ballot was marked by him or by a friend of the elector.

Entry in poll record

INTERPRETER AT THE POLL

56. Where neither the deputy returning officer nor the poll clerk understands the language spoken by an elector or where the elector is deaf, the elector has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the elector and the answers, but in the event of inability to secure an interpreter, the elector shall, for the time being, be refused a ballot.

When language spoken by elector not understood

COUNTING THE BALLOTS

57.—(1) Immediately after the close of the poll, the deputy returning officer shall count the number of electors who appear by the poll record to have voted and on such record shall enter that number and draw a bold double line immediately below the name of the elector who voted last, and shall

Duties of D.R.O. at close of poll

sign his name thereto, then, in the presence and in full view of the persons entitled to be present, as set out under subsection 42 (1), he shall open the ballot box and proceed to count the number of valid ballots cast for each candidate and all other ballots therein giving full opportunity to those present to see each ballot and observe the procedure.

What may be
accepted as
valid ballot

(2) Only a ballot which was supplied to the elector by the deputy returning officer and with only one of the circular spaces marked and upon which there is no writing or mark by which the voter can be identified shall be accepted as a valid ballot at the count.

Where ballot
not to be
rejected

(3) No word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

Objections
to be noted

(4) The deputy returning officer shall make a note in the poll record of every objection taken to a ballot by a candidate or scrutineer and shall decide the objection, subject to review as hereinafter provided.

Numbered
and
initialled

(5) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer.

How ballots
to be
counted

58.—(1) All accepted ballots indicating the votes given for each candidate respectively and all unmarked, rejected, cancelled, declined and unissued ballots shall be counted and sealed in separate envelopes by the deputy returning officer and the stubs of any ballots issued shall be included in the envelope with the unissued ballots.

Candidates
and
scrutineers
may sign
envelope

(2) Any candidates or scrutineers present may write their signatures across the flap of any envelope containing ballots and may also affix their seals.

STATEMENT OF THE POLL

Statement
to be made
by D.R.O.

59.—(1) The deputy returning officer shall complete a prescribed statement of the poll, accounting for all the ballots supplied to him by the returning officer, and the statement shall be signed by the deputy returning officer and poll clerk and may be signed by any candidate or scrutineer present.

Disposition
of statements

(2) The deputy returning officer shall ensure that,

- (a) one part of the statement is enclosed in a special envelope supplied for the purpose of the official tabulation;

- (b) one part is placed in or attached to the poll record; and
- (c) ~~one part is retained by him.~~

CERTIFICATE OF COUNT

60. The deputy returning officer shall complete a prescribed certificate of the number of ballots cast for each candidate and of the number of rejected and unmarked ballots and shall provide a copy of the certificate for each candidate to the scrutineer present and in the case where no candidate or scrutineer is present the certificates shall be forwarded to the returning officer in the poll return envelope.

Certificate of result of poll

FINAL POLL PROCEDURE

61. The deputy returning officer and the poll clerk shall ensure that the poll record, polling list, ballot envelopes and all other documents collected or used at the polling place are placed in the poll return envelope and shall each take the prescribed oath that their duties have been completed.

Polling list, etc., to be placed in poll return envelope

62.—(1) The deputy returning officer shall then personally deliver the sealed poll return envelope along with the sealed official tabulation envelope to the returning officer or both envelopes shall be delivered by the poll clerk or by some other person chosen as special messenger by the returning officer or the deputy returning officer who shall write on the envelopes the name of the person to whom they were entrusted and shall take a receipt therefor.

Delivery of poll return envelope to R.O.

(2) Any candidate or scrutineer present may affix his seal or write his signature across the flap of the sealed poll return envelope or the sealed official tabulation envelope.

Candidate or scrutineer may affix seal

(3) In lieu of proceedings under subsection (1), the deputy returning officer, with the approval of the returning officer, may seal the official tabulation envelope inside of the poll return envelope and forward it by registered mail to the returning officer.

Registered mail

(4) The poll clerk or other person authorized to personally deliver the envelopes to the returning officer shall do so forthwith and shall take before him the prescribed oath and any candidate or scrutineer is entitled to be present when the envelopes are so delivered to the returning officer.

Delivery to be forthwith

RECEIPT OF POLL RETURN ENVELOPE BY RETURNING OFFICER

R.O. to seal poll return envelope

63. Immediately on the receipt of a poll return envelope, without effacing or covering any seals already affixed to it, the returning officer shall affix a seal prescribed by the Chief Election Officer in such a way that the envelope cannot be opened without the seal being broken and shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it.

OFFICIAL TABULATION

Conduct of official tabulation by R.O.

64.—(1) The returning officer, at the place, day and hour stated in his notice of poll shall, in the presence of the election clerk and any candidate or candidate's delegate or scrutineer present, conduct the official tabulation by adding up the votes given for each candidate as taken from the official statements of the poll contained in the special envelopes returned to him or from such other sources as may be available to him but without opening any of the sealed envelopes containing ballots.

Adjournment of official tabulation

(2) The returning officer may adjourn the official tabulation proceedings to a future day and hour and so on from time to time but not in the aggregate to exceed fourteen days,

- (a) if any of the poll return envelopes or official tabulation envelopes have not been returned by the day fixed for the official tabulation;
- (b) if any deputy returning officer has not enclosed in the envelopes referred to in clause (a) the official statement of the ballots counted by him as required by this Act; or
- (c) if for any cause the returning officer cannot ascertain the number of votes given for each candidate.

Procedure when poll envelopes lost, statements not available, etc.

65. If, on the fifteenth day after the day fixed for the official tabulation,

- (a) any of the poll return envelopes are known to be lost or destroyed or for any reason have not been received; or
- (b) any statements or certificates of the ballot count at any polling places are not available and copies of them cannot be procured,

the returning officer shall ascertain, by such evidence or documents verified by declaration as he is able to obtain, the total number of votes given for each candidate at the several polling places and may summon any poll official, scrutineer or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents and the returning officer shall notify the candidates of the intended proceedings and may examine any person so summoned respecting the matter in question.

66.—(1) At the close of the official tabulation, or hearings in the case of missing envelopes or statements, the returning officer shall forthwith declare to be elected the candidate having the largest number of votes. Declaration of result

(2) If an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared to be elected, the returning officer shall give the casting vote. Casting vote

EFFECT OF IRREGULARITIES

67. No election shall be declared invalid, Irregularities not affecting result

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the ballots or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the outcome of the election.

RECOUNT

68. Notice in writing of an application to be made under subsection 70 (1) shall be given forthwith by the applicant personally or sent by registered mail to the Chief Election Officer, the returning officer and election clerk, and each candidate in the electoral district. Notice

Interpretation

69.—(1) In this section and in sections 70 to 80, unless otherwise stated, “judge” means the judge of the county court of the county or of the district court of the provisional judicial district in which the electoral district or any part of it is situate and, where there are two or more judges, the senior judge or, in the case of illness or absence of the senior judge or where the senior judge requests him to act, another judge of the court.

What judge to hold recount when district in two or more counties

(2) Where the electoral district comprises parts of two or more counties or provisional judicial districts any application shall be to and the recount shall take place before the judge of the court of the county or provisional judicial district having the larger or largest population according to the last federal census.

Where recount may be had

70.—(1) For the purpose of determining the candidate who obtained the highest number of votes and within the four days, Sunday being excluded, following the official tabulation made by the returning officer, a judge may appoint a time and place to recount the votes cast at the election in the electoral district upon the application of a candidate or elector if it is made to appear by affidavit that,

- (a) a deputy returning officer has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) the returning officer has improperly tabulated the votes.

Security for costs

(2) An application under subsection (1) shall be accompanied by a receipt showing that there has been deposited with the clerk of the county or district court, as security for costs in connection with the recount, the sum of \$200 or money order or cheque in that amount drawn upon and accepted by a chartered bank or trust company doing business in Ontario.

Notice

71. Where an application for a recount is refused by the judge, notice of such refusal shall be given forthwith by the clerk of the court to those persons mentioned in section 68.

Notice of time and place of recount

72.—(1) At least two days notice in writing of the time and place appointed for the recount by the judge shall be given forthwith by the clerk of the court to those persons mentioned in section 68 in such manner as the judge directs.

Presence of clerk of court

(2) The judge may require the clerk of the county or district court to be present at the time and place appointed.

(3) The returning officer and the election clerk shall be present at the recount and each candidate is entitled to be present and to be represented by counsel and to have present and be represented by such scrutineers as are permitted by the judge, and except by such permission no other person shall be present.

Who to be present at recount

(4) The returning officer and the election clerk shall attend at the recount with all the poll return envelopes received from the deputy returning officers and the original statements of the poll which shall continue in the custody of the returning officer and he is responsible for them subject to any direction given by the judge.

Documents to be produced at recount

(5) At the time and place appointed, the judge shall proceed to make the recount from the original statements of the poll or have opened the sealed envelopes containing,

Procedure by judge

(a) the ballots that have been counted for each candidate;

(b) the ballots rejected as to marking; and

(c) the ballots unmarked by any voters,

and may have opened the sealed envelopes containing,

(d) the cancelled ballots;

(e) the declined ballots; and

(f) the unissued ballots.

73. The judge shall conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll.

Rules to govern judge at recount

74.—(1) If any person requests him to do so, the judge shall write the poll number on the back of and initial any disputed ballots and seal them in a separate envelope.

Distinguishing disputed ballots

(2) Upon the completion of the recount, except as provided by subsection (1), the judge shall have sealed up all the ballots in their original envelopes and all the original statements in a separate envelope clearly marked as to its contents.

Sealing up ballots at close of recount

75.—(1) Where a poll return envelope used at a polling place was not available to the returning officer when he made his decision in respect of the number of votes given for a can-

Review of decision of R.O. when documents missing

didate or where the proper statement was not found in the official tabulation envelope, the judge shall, if necessary or required, review the decision of the returning officer.

Powers of judge

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer.

When judge to certify result of recount

76.—(1) The judge shall certify in writing to the returning officer the result of the recount unless, during the two days following completion of his recount, Sunday being excluded, the judge receives a notice of appeal as provided in section 79.

Declaration of result

(2) Upon receipt of the judge's certificate, the returning officer shall then declare the candidate having the largest number of votes to be elected but in the case of an equality of votes, the returning officer shall give the casting vote.

Costs

77.—(1) The costs of the recount, including the costs of the returning officer and the election clerk, are in the discretion of the judge who may, subject to subsection (3), order by whom, to whom, and in what manner they shall be paid.

Taxing and allowing costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs in respect of proceedings in the Supreme Court.

Where judge makes no provision re costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Deposits, disposal of

78. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the court of the county or judicial district upon the judge's order for the balance.

APPEAL FROM DECISION ON RECOUNT

Appeal from decision of judge

79.—(1) Any party may appeal from the decision of the judge who conducted the recount by giving notice in writing within two days after the completion of the recount to the other parties concerned and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of notice of appeal

(2) The notice may be served upon the other parties personally, or upon the solicitor who acted for him upon the

recount by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

(3) Where the appeal is limited, the judge who conducted the recount shall forward, in the envelope as provided for in subsection 74 (1), the ballots that are the subject of appeal together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) The judge who conducted the recount shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Allowing copy of certificate of judge

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appointment for hearing of appeal

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his decision to the judge who conducted the recount, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Procedure on hearing of appeal, certificate of result

(7) The judge of the Supreme Court may direct by whom and to whom the cost of the appeal, including the costs of the returning officer and the election clerk, shall be paid.

Costs of appeal

(8) The judge of the Supreme Court shall tax the costs of the appeal.

Taxing and allowing costs

(9) Where the judge of the Supreme Court makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Idem

ELECTION RETURN

80.—(1) If a candidate has been declared elected by the returning officer as provided by section 28 or 30, or if the returning officer has received from a judge the certificate of the result of a recount or if by the seventh day following the completion of the official tabulation the returning officer,

When return to be made

- (a) has not received notice to attend before a judge for a recount; or
- (b) has received notice from a judge that a recount has been refused,

the returning officer shall send by registered mail, the writ with his dated and signed return to the Chief Election Officer that a candidate has been elected by acclamation or that the candidate having the largest number of votes has been duly elected and shall forward a copy of his return to each candidate.

Report
by R.O.

(2) The returning officer shall include with his return to the Chief Election Officer a report of the proceedings at the official tabulation making any observations he thinks proper as to the state of the poll return envelopes or the want of any statement of the ballots counted and the mode by which he ascertained the votes given for each candidate under section 65, if applicable.

Declaration
by R.O.

(3) The returning officer shall forthwith make the prescribed affidavit after sending his return, and it shall be sent forthwith to the Chief Election Officer.

Application
to compel
R.O. to add
up votes,
make return,
etc.

81.—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

and the person aggrieved or the Chief Election Officer or any elector applies under the *Judicial Review Procedure Act* for an order commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

R.S.O. 1980,
c. 224

Application
of
R.S.O. 1980,
c. 223

(2) In other respects the *Judicature Act* and the rules of court made thereunder apply to such application.

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer.

Other rights and remedies

82. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected.

Notice of return in Ontario Gazette

DISPOSITION OF ELECTION DOCUMENTS AND MATERIAL

83.—(1) Forthwith after making his return, the returning officer shall arrange for shipment in the prescribed manner to the Chief Election Officer of all envelopes returned to him by the deputy returning officers, and all documents, papers, and materials in his possession relating to the conduct of the election but excluding those related to enumeration which shall be destroyed.

Shipment to C.E.O. of election documents

(2) The returning officer shall transmit all election material to the Chief Election Officer in boxes or packages marked "Used" or "Unused" and secured and sealed with the prescribed seals and the returning officer shall endorse on each box or package of used material a description of the contents, the date of the election and the name of the electoral district to which they relate.

Endorsement thereon

84.—(1) The Chief Election Officer shall retain in his possession the used documents transmitted to him by the returning officer under section 83 for at least one year, and if the election is contested, then for one year after the termination of the contestation.

How long to be retained

(2) If notice is served on the Chief Election Officer under subsection 98 (6) or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED".

When documents not to be destroyed

85.—(1) All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word.

Inspection of documents

Inspection
of ballots
only under
order of
judge

(2) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

When order
to be
granted

(3) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of an action questioning an election or return.

Conditions
of order

(4) The order may be made subject to such conditions as the judge thinks proper.

Where
inspection
takes place

(5) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key.

Evidence as
to
documents,
etc.,
in certain
cases

86. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

Inspection of
documents
under
order of
committee of
Assembly

87. Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto.

Report re
conduct of
election

88. The Chief Election Officer, in addition to any other requirements of this Act in respect of the tabling of the results of an election, shall report to the Assembly through the Speaker whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act.

CORRUPT PRACTICES AND OTHER OFFENCES:
PENALTIES AND ENFORCEMENT

89. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more than once; or
- (c) votes in an electoral district or polling division other than the one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

90. Every person who,

Improper
voting by
proxy, etc.

- (a) appoints a proxy for reward or remuneration;
- (b) induces or procures any elector by undue influence to appoint a voting proxy to vote at an election;
- (c) unduly solicits or attempts to solicit from an elector an appointment as a voting proxy to vote at an election;
- (d) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;
- (e) knowingly appoints more than one person as a voting proxy; or
- (f) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or had reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is no longer entitled to vote or is dead,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

91. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a

Wilful
miscount
of ballots

false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Neglect
of duties

92. Every returning officer, election clerk, revision assistant, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
relating to
ballot papers

93. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) without authority, places in a ballot box anything other than an official ballot;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or packet of ballots provided for use at, in use, or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (g) being authorized by the returning officer or Chief Election Officer to print the ballots for an election, prints more than he is authorized to print; or
- (h) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

94. Every person who knowingly furnishes false or misleading information to a returning officer or to any person who by this Act is authorized to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

95. Every person who,

Inducing
unqualified
person to
vote, etc.

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

96. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

General
offence

97.—(1) Where a candidate at an election is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council for eight years following the date of the official return.

Disqualifi-
cation of
candidates
guilty of
corrupt
practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1).

Limitation

CONTESTED ELECTIONS

98.—(1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly or whether or not any person is guilty of a corrupt practice shall be tried and determined by an action commenced by issuing a writ in the Supreme Court.

Validity of
election,
determination
by action

(2) Where the Supreme Court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 89 to 97.

Penalties
for
corrupt
practice

(3) A candidate at an election or any elector qualified to vote at an election or the Chief Election Officer, if he considers that it is in the public interest that an action be commenced, may commence an action.

Who may
commence
action

Time for
commencing
action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election return, but this subsection does not apply to the Chief Election Officer who may commence an action under this section at any time.

Local
registrar
to notify
Registrar

(5) Upon receipt of a writ of summons, the local registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

Registrar
to notify
C.E.O.

(6) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this section by anyone other than the Chief Election Officer.

C.E.O. to
notify
Assembly
and
returning
officer

(7) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication
of notice
by returning
officer

(8) The returning officer, after receipt of a notification under subsection (7), shall forthwith publish a notice thereof in the prescribed form once in a newspaper having general circulation in the electoral district.

Practice
and
procedure

99.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to an action commenced under section 98.

Judge
without jury

(2) The action shall be tried by a judge without a jury.

Intervention
in action by
C.E.O.

100.—(1) The Chief Election Officer, following receipt of the notice under subsection 98 (6), may apply to a judge of the Supreme Court, or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Notice of
application
to be filed
and served

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Where leave
granted

(3) If the judge grants leave to intervene, he shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to subpoena witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action.

101.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the election officer incurred in the publication of notices in the electoral district in respect of the writ of the action or proceedings therein.

Security
for costs

(2) The security shall be in the amount of \$2,000 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.

Idem

102. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under section 98 and an action may be commenced in the same manner as if the member elected had not disclaimed.

Disclaimer
not to affect
action
R.S.O. 1980,
c. 235

103.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Abatement
of action

(2) The abatement of an action does not affect any liability for costs previously incurred.

Liability
for costs

(3) On the abatement of an action, notice of the abatement shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be substituted as the sole plaintiff.

Substitution
of plaintiff

104. Where a plaintiff is not qualified to be a plaintiff in an action under section 98, the action shall not on that account be dismissed if within such time as a judge of the Supreme Court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.

Substitution
for
unqualified
plaintiff

105.—(1) If, before or during the trial,

Death of
defendant,
etc., at
or before
trial

(a) the defendant dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the defendant gives notice to the court that he does not intend to oppose, or further oppose the action,

notice of such event shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district.

Substituted
as further
defendant

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment
of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice
of intention
not to
oppose
given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly.

Declaration
that election
void

106.—(1) Where it is determined that the successful candidate is guilty of a corrupt practice, the court may declare his election void.

Unseating
and seating
of another
candidate

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person was elected, that he be admitted to take his seat in the Assembly or, if it is determined that no other person is elected, the court may provide for the holding of a new election.

Where result
of election
affected

(3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and provide for holding a new election.

Unseating of
disqualified
person

(4) Where it is determined that a person elected has become disqualified or has forfeited his seat, the court may order that he be removed from office and provide for the holding of a new election.

Where act or
omission
affects
result of
election

(5) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and provide for holding a new election.

(6) Where a new election is ordered, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$15,000 per candidate.

Compensation of candidate where election void

(7) The Registrar of the Supreme Court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly.

Judgment to Legislative Assembly

107.—(1) If the court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Where election set aside and appeal entered

(2) In the cases to which subsection (1) applies, where an appeal is entered, the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court.

Notice of appeal to Clerk

108. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal.

Time for issue of writ for new election

109.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

Appeals to Court of Appeal

(2) The Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court of Appeal as speedily as practicable.

Setting down for hearing, etc.

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment or new trial

Appeal from
decision on
new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section.

Inquiry as
to extensive
corrupt
practices

110. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

ELECTION FEES AND EXPENSES

Regulations

111. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 77 and 79.

Payment of
expenses
of Act

112.—(1) The fees and expenses to be allowed to the election officers, returning officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Premises and
equipment

(2) The Chief Election Officer may lease such premises and acquire such equipment and supplies as are necessary to properly carry out his responsibilities under this Act.

Clerical and
technical
assistance

(3) The Chief Election Officer from time to time may appoint such persons having technical or special knowledge of any kind to assist the Chief Election Officer for a limited period of time, or in respect of a particular matter.

Accountable
warrants

(4) For the purpose of providing the funds required under this section, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts and
audit

(5) The sums paid out under this section shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the

same person, unless the Lieutenant Governor in Council otherwise directs.

(6) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor.

Audit by
Provincial
Auditor

OFFICE OF THE CHIEF ELECTION OFFICER

113.—(1) Subject to the approval of the Board, the Chief Election Officer may employ such persons on his permanent staff as are necessary in the performance of his duties and for the efficient and proper operation of his office and may, for such employees, establish job classifications, and may determine the salary of the Assistant Chief Election Officer and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees on the permanent staff of his office and the Chief Election Officer shall present annually to the Board estimates of the sums of money that will be required for these purposes.

Staff

(2) The Board shall review and may alter as it considers proper the estimates referred to in subsection (1), and the chairman of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review.

Review of
estimates
by Board

(3) The moneys required for the purposes of this section shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

114.—(1) Every employee of the office of the Chief Election Officer, before performing any duty as such, shall take and subscribe the prescribed oath of office and secrecy and, if required by the Chief Election Officer, the prescribed oath of allegiance.

Oath of
office and
secrecy and
oath of
allegiance

(2) The Chief Election Officer may require any person appointed to assist the Chief Election Officer for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths referred to in subsection (1).

Idem

(3) A copy of each oath administered to an employee of the office of the Chief Election Officer under subsection (1) shall be kept in the file of the employee in the office of the Chief Election Officer.

Record of
oaths

Cause for
dismissal

(4) The failure of an employee of the office of the Chief Election Officer to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal.

Benefits
R.S.O. 1980,
c. 418

115.—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Chief Election Officer, the Assistant Chief Election Officer, and to the full-time permanent and probationary employees of the office of the Chief Election Officer and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Chief Election Officer or any person authorized in writing by the Chief Election Officer may exercise the powers and duties of a deputy minister under that Act in respect of such benefits.

Super-
annuation
benefits
R.S.O. 1980,
c. 419

(2) The *Public Service Superannuation Act* applies to the full-time permanent and probationary employees of the office of the Chief Election Officer as though the office of the Chief Election Officer were a commission designated by the Lieutenant Governor in Council under section 28 of that Act and to the Chief Election Officer and Assistant Chief Election Officer as though they were members of such a commission who held positions designated by and whose requests for such designations had been approved by the Lieutenant Governor in Council under section 28 of that Act and all credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the office of the Chief Election Officer and of the Chief Election Officer and the Assistant Chief Election Officer accumulated under that Act immediately before this Act comes into force are preserved and continued in accordance with that Act.

Conduct
and
discipline

116.—(1) The Chief Election Officer may make orders and rules for the conduct of the internal business of the office of the Chief Election Officer and, after a hearing, may suspend, demote or dismiss any employee of the office for cause.

Hearing
R.S.O. 1980,
c. 418

(2) The provisions of the *Public Service Act* and the regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Chief Election Officer is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an

employee of the Office, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister.

(3) A decision of the Chief Election Officer to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to him, to the Public Service Grievance Board established under the *Public Service Act*.

Appeals

R.S.O. 1980,
c. 418

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Chief Election Officer and to the appellant.

Board
authorized
to hear
appeals

MISCELLANEOUS

117. Section 6 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. The persons qualified to sit and vote as members of the Assembly are any persons of the full age of eighteen years who are Canadian citizens resident in Ontario and not disqualified by this or any other Act from election to the Assembly.

Qualification
to hear
members

118. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

119.—(1) This Act, except section 117, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 117 comes into force and has effect on the day after the day the Legislature is dissolved or ended by the effluxion of time, where the day of dissolution or ending falls after the 1st day of July, 1986.

Idem

120. The short title of this Act is the *Election Act, 1984*.

Short title

Bill 18

An Act to amend the Justices of the Peace Act

The Hon. R. McMurtry

Attorney General

1st Reading March 29th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The amendments require the duties of justices of the peace to be rotated by duty rosters, fixed by the chief judges.

SECTION 2. The salaries and other benefits of justices of the peace who are paid by salary are fixed by regulation.

SECTION 3. The new section 7a provides for the retirement of justices of the peace. The new section 7b provides a procedure for removal for cause.

SECTION 4.—Subsection 1. Complementary to the new section 7b as contained in section 3 of this Bill.

Subsection 2. The amendment substitutes the chief judge for the Attorney General in respect of the power to reinstate a justice of the peace who was suspended from office pending an investigation by the Justices of the Peace Review Council.

Subsection 3. Investigations by the Justices of the Peace Review Council may be held in public or private, but the Attorney General may require it to be held in public.

SECTION 5. The purpose of this section is to permit the disposition of certain pending litigation without statutory interference.

Bill 18

1984

An Act to amend the Justices of the Peace Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(4) Subject to subsection (5), a justice of the peace shall not perform duties for which he is remunerated by a fee except in accordance with a duty roster established by the chief judge of the provincial courts (criminal division) or a judge designated by him. Duty roster

(5) In respect of matters pertaining to the business of the provincial courts (family division) a justice of the peace shall not perform duties for which he is remunerated by a fee except in accordance with a duty roster established by the chief judge of the provincial courts (family division) or a judge designated by him. Idem

(6) The duty rosters established under subsections (4) and (5) shall be available to the public. Duty rosters public

2. Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may authorize the payment of a salary to a justice of the peace and may make regulations, Salaries and benefits

- (a) fixing the salaries of justices of the peace;
- (b) providing for the benefits to which justices of the peace who are paid by salary are entitled, including,
 - (i) leave of absence and vacations,

- (ii) sick leave credits and payments in respect of such credits,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as justices of the peace who are paid by salary were entitled under the *Public Service Act* at the time of their appointment.

R.S.O. 1980,
c. 418

3. The said Act is amended by adding thereto the following sections:

Retirement

7a.—(1) Every justice of the peace who is paid by salary shall retire upon attaining the age of sixty-five years.

Continuation
in office

(2) A justice of the peace who is paid by salary and who has attained the age for retirement under subsection (1) may, subject to the annual approval of the chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division), continue in office as a justice of the peace who is paid by salary until he attains the age of seventy years.

Idem

1984, c. ...

(3) A justice of the peace who is paid by salary and who is of the age of sixty-five years or more and is in office on the day the *Justices of the Peace Amendment Act, 1984* comes into force may continue in office until his next birthday and thereafter may continue in office, subject to subsection (2).

Removal
for cause

7b.—(1) A justice of the peace may be removed from office before attaining retirement age only if the justice of the peace has become incapacitated or disabled from the due execution of his office by reason of,

- (a) infirmity;
- (b) conduct that is incompatible with the execution of his office; or
- (c) having failed to perform the duties of his office,

and only if a complaint against the justice of the peace has been investigated by the Justices of the Peace Review Council.

Order for
removal

(2) An order removing a justice of the peace from office under this section may be made by the Lieutenant Governor in Council, and the order and recommendation of the Justices of the Peace Review Council shall be laid before the Legisla-

tive Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

4.—(1) Clause 8 (3) (b) of the said Act is repealed and the following substituted therefor:

(b) to receive complaints against justices of the peace.

(2) Subsection 8 (4) of the said Act is amended by striking out "Attorney General" in the fifth line and inserting in lieu thereof "chief judge".

(3) Section 8 of the said Act is amended by adding thereto the following subsection:

(5a) The investigation of a complaint against a justice of the peace may be held in public or in private, unless the Attorney General requires that it be held in public.

Investigations
in public or
private

5. This Act shall not be considered in the judicial determination of an issue as to the jurisdiction of a justice of the peace on the ground that he does not have the degree of independence required by the Canadian Charter of Rights and Freedoms, if the issue was raised in a proceeding before the 29th day of March, 1984 and has not been finally disposed of before this Act comes into force.

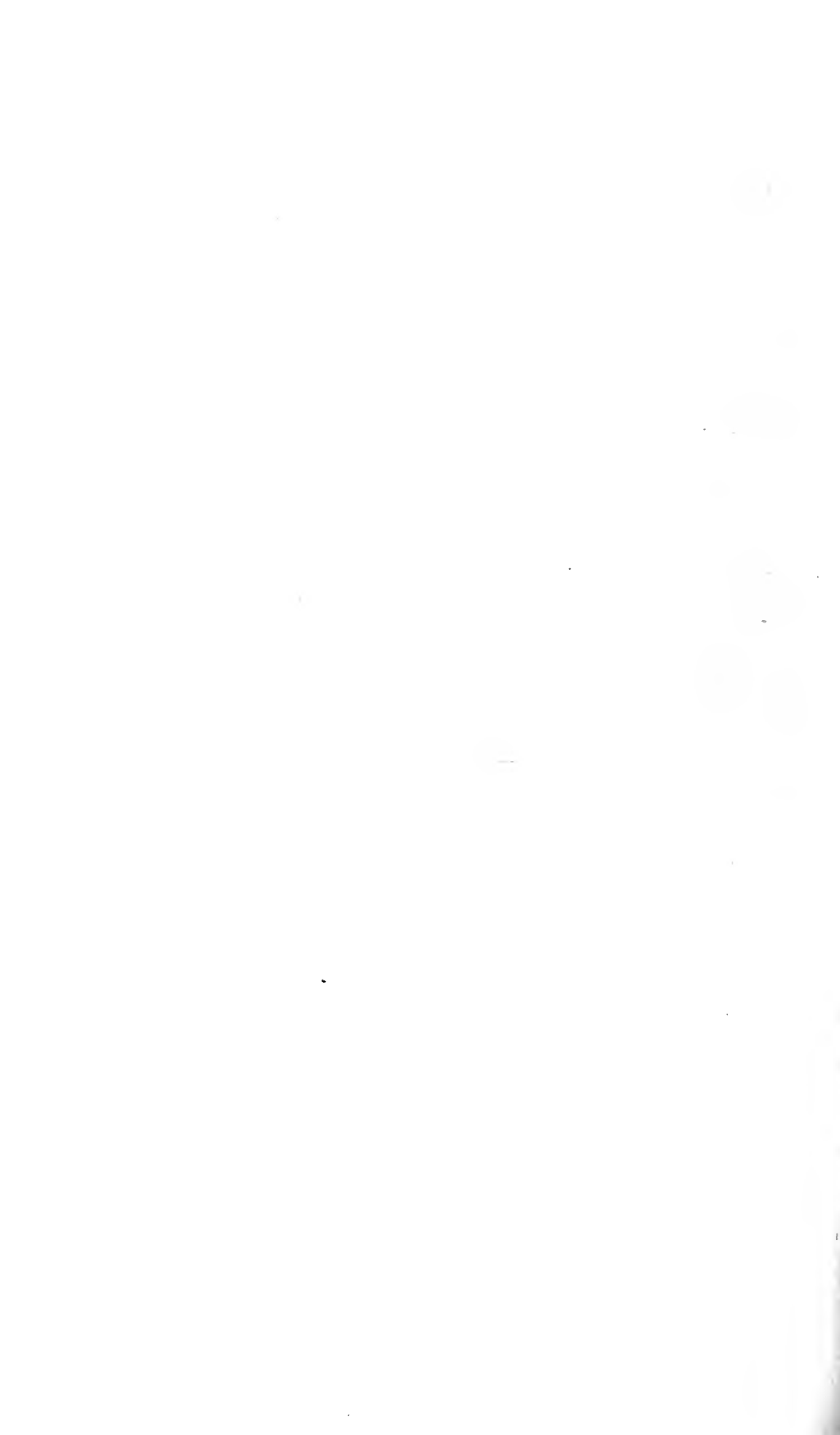
Consideration
of
amendments
in certain
pending
proceedings

6. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

7. The short title of this Act is the *Justices of the Peace Amendment Act, 1984*.

Short title





Bill 18

*(Chapter 8
Statutes of Ontario, 1984)*

An Act to amend the Justices of the Peace Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	March 29th, 1984
<i>2nd Reading</i>	April 10th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 18

1984

An Act to amend the Justices of the Peace Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(4) Subject to subsection (5), a justice of the peace shall not perform duties for which he is remunerated by a fee except in accordance with a duty roster established by the chief judge of the provincial courts (criminal division) or a judge designated by him. Duty roster

(5) In respect of matters pertaining to the business of the provincial courts (family division) a justice of the peace shall not perform duties for which he is remunerated by a fee except in accordance with a duty roster established by the chief judge of the provincial courts (family division) or a judge designated by him. Idem

(6) The duty rosters established under subsections (4) and (5) shall be available to the public. Duty rosters
public

2. Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may authorize the payment of a salary to a justice of the peace and may make regulations, Salaries and
benefits

- (a) fixing the salaries of justices of the peace;
- (b) providing for the benefits to which justices of the peace who are paid by salary are entitled, including,
 - (i) leave of absence and vacations,

- (ii) sick leave credits and payments in respect of such credits,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as justices of the peace who are paid by salary were entitled under the *Public Service Act* at the time of their appointment.

R.S.O. 1980,
c. 418

3. The said Act is amended by adding thereto the following sections:

Retirement

7a.—(1) Every justice of the peace who is paid by salary shall retire upon attaining the age of sixty-five years.

Continuation
in office

(2) A justice of the peace who is paid by salary and who has attained the age for retirement under subsection (1) may, subject to the annual approval of the chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division), continue in office as a justice of the peace who is paid by salary until he attains the age of seventy years.

Idem

1984, c. 8

(3) A justice of the peace who is paid by salary and who is of the age of sixty-five years or more and is in office on the day the *Justices of the Peace Amendment Act, 1984* comes into force may continue in office until his next birthday and thereafter may continue in office, subject to subsection (2).

Removal
for cause

7b.—(1) A justice of the peace may be removed from office before attaining retirement age only if the justice of the peace has become incapacitated or disabled from the due execution of his office by reason of,

- (a) infirmity;
- (b) conduct that is incompatible with the execution of his office; or
- (c) having failed to perform the duties of his office,

and only if a complaint against the justice of the peace has been investigated by the Justices of the Peace Review Council.

Order for
removal

(2) An order removing a justice of the peace from office under this section may be made by the Lieutenant Governor in Council, and the order and recommendation of the Justices of the Peace Review Council shall be laid before the Legisla-

tive Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

4.—(1) Clause 8 (3) (b) of the said Act is repealed and the following substituted therefor:

(b) to receive complaints against justices of the peace.

(2) Subsection 8 (4) of the said Act is amended by striking out "Attorney General" in the fifth line and inserting in lieu thereof "chief judge".

(3) Section 8 of the said Act is amended by adding thereto the following subsection:

(5a) The investigation of a complaint against a justice of the peace may be held in public or in private, unless the Attorney General requires that it be held in public.

Investigations
in public or
private

5. This Act shall not be considered in the judicial determination of an issue as to the jurisdiction of a justice of the peace on the ground that he does not have the degree of independence required by the Canadian Charter of Rights and Freedoms, if the issue was raised in a proceeding before the 29th day of March, 1984 and has not been finally disposed of before this Act comes into force.

Consideration
of
amendments
in certain
pending
proceedings

6. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

7. The short title of this Act is the *Justices of the Peace Amendment Act, 1984*.

Short title

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Bill 19

An Act to amend the Planning Act, 1983

Mr. Swart

1st Reading March 29th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill provides the means to ensure priority in preserving Ontario's best agricultural land for food growing purposes.

Bill 19

1984

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Planning Act, 1983*, being chapter 1 of the Statutes of Ontario, 1983, is amended by adding thereto the following section:

2a. The Minister, the council of every municipality, every local board, every minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro shall, in exercising any authority that affects any planning matter, give priority to the preservation, for agricultural purposes, of all specialty crop lands and of lands designated as Class 1, 2 or 3 by the Canada Land Inventory of Soil Capability.

Preservation
of
agricultural
lands

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Planning Amendment Act, 1984*.

Short title

Bill 20

An Act to amend the Employment Standards Act

Mr. Reid
(Rainy River)

1st Reading March 29th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would entitle employees to see their personnel records and to have errors or omissions in their personnel records corrected.

Bill 20

1984

**An Act to amend the
Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

11a.—(1) An employee has a right to see and shall on request be given access to the employer's personnel records relating to the employee. Access to personnel records

(2) An employee has a right to have errors or omissions in the employer's personnel records relating to the employee corrected. Correction of errors or omissions

(3) An employer who refuses to make a correction requested by an employee under subsection (2) shall, Where employer refuses to make correction

(a) notify the employee that the employer refuses to make the correction as requested; and

(b) note the request and response in the personnel record relating to the employee.

(4) An employee who is dissatisfied with an employer's refusal to make a correction to a personnel record relating to the employee may request that an employment standards officer investigate and seek to conciliate the matter. Employee may seek assistance of employment standards officer

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Employment Standards Amendment Act, 1984*. Short title

Bill 21

An Act to amend the Highway Traffic Act

Mr. Breaugh

1st Reading March 30th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to make it compulsory for all motor vehicles to be operated with their lights on at all times.

Bill 21

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 44 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) When on a highway at any time, every motor vehicle other than a motorcycle shall carry three lighted lamps in a conspicuous position, one on each side of the front of the vehicle which shall display a white or amber light only, and one on the rear of the vehicle which shall display a red light only.

Lamps
required on
all motor
vehicles
except
motorcycles

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Daylighter Act, 1984*.

Short title

Bill 22

An Act to amend the Election Finances Reform Act

Mr. Philip

1st Reading April 2nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to clarify that municipal corporations are not entitled to make contributions under the Act.

Bill 22

1984

**An Act to amend the
Election Finances Reform Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Election Finances Reform Act*, being chapter 134 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ga) "corporation" does not include a municipal corporation.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Election Finances Reform Amendment Act, 1984*. Short title

Bill 23

An Act to amend the Condominium Act

Mr. Philip

1st Reading April 2nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would repeal unproclaimed provisions of the *Condominium Act* that relate to a condominium bureau and, instead, provide for a registrar of condominiums who would give advisory services to the public, maintain a register of the mailing addresses of condominiums and issue licences to condominium managers.

Condominium management would be restricted to licensees, except in the case of managers of a single condominium having no more than 100 units, and the Lieutenant Governor in Council would be empowered to make regulations requiring the posting of bonds. The Association of Condominium Managers may, with the approval of the Lieutenant Governor in Council, set standards for managers.

The Bill also provides a consensual procedure for the review and resolution of disputes within a condominium.

Bill 23

1984

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ya) "tribunal" means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1980, c. 274

2. The said Act is amended by adding thereto the following section:

21a. The corporation shall advise the registrar of condominiums appointed under subsection 56 (1) of its mailing address and shall forthwith advise the registrar of any changes in its mailing address. Mailing address

3. Section 55 of the said Act is amended by striking out "subsection 56 (8)" in the third line and inserting in lieu thereof "subsection 56 (4), (5) or (6)".

4. Section 56 of the said Act is repealed and the following substituted therefor:

56.—(1) There shall be a registrar of condominiums who shall be appointed by the Lieutenant Governor in Council. Registrar

(2) The registrar of condominiums may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act. Powers

(3) The registrar shall, Duties

(a) provide an information and advisory service to corporations, condominium managers and purchasers and owners of units for residential purposes and

issue information pamphlets in such languages as the registrar considers necessary; and

- (b) maintain and make available to the public a register of the mailing addresses of all corporations in Ontario.

Condominium
manager's
licence

(4) No person shall enter into an agreement to manage the property of a corporation unless he is the holder of a licence issued by the registrar.

Staff
to be
licensed

(5) No holder of a licence issued by the registrar shall employ a person to manage the property of a corporation unless the person is the holder of a licence issued by the registrar.

Conflict of
interest

(6) No person who owns more than two units in a corporation shall enter into an agreement to manage the property of the corporation.

Exception

(7) Despite subsection (4), an individual may, without being the holder of a licence issued by the registrar, enter into an agreement to manage the property of one corporation having no more than 100 units.

Issuance of
licences

(8) The registrar shall issue licences to manage the property of corporations and an applicant for a licence is entitled to a licence or renewal of a licence except where,

- (a) having regard to his financial position the applicant cannot be reasonably expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty; or

- (d) the applicant is carrying on activities that are or will be, if the applicant is licensed, in contravention of this Act or the regulations.

(9) Subject to subsection (11), the registrar may refuse to issue a licence to an applicant where in the registrar's opinion the applicant is not entitled to registration under subsection (8). Refusal of licence

(10) Subject to subsection (11), the registrar may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under subsection (8) if he were an applicant or where the licensee is in breach of a term or condition of the licence. Idem

(11) Where the registrar proposes, Notice of proposal

(a) to refuse to grant or renew a licence; or

(b) to suspend or revoke a licence,

he shall serve notice of his proposal together with written reasons therefor on the proposed applicant or licensee.

(12) A notice under subsection (11) shall inform the proposed applicant or licensee that he is entitled to a hearing by the tribunal if he mails or delivers, within fifteen days after the notice under subsection (11) is served on him, notice in writing requiring a hearing to the registrar and the tribunal, and he may so require such a hearing. Hearing

(13) Where a proposed applicant or licensee does not require a hearing by the tribunal in accordance with subsection (12), the registrar may carry out the proposal stated in his notice under subsection (11). Where hearing not required

(14) Where a proposed applicant or licensee requires a hearing by the tribunal in accordance with subsection (12), the tribunal shall appoint a time for and hold the hearing, and on the application of the registrar at the hearing may, by order, direct the registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the tribunal considers the registrar ought to take in accordance with this Act and the regulations, and for such purposes the tribunal may substitute its opinion for that of the registrar. Hearing

(15) The tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purpose of this Act. Terms and conditions

Parties (16) The registrar, the applicant or licensee who has required a hearing and such other persons as the tribunal may specify are parties to the proceedings before the tribunal under this section.

Continuation of registration (17) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his registration shall be deemed to continue,

(a) until renewal is granted; or

(b) where he is served with notice that the registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and where a hearing is required, until the tribunal has made its order.

Complaints (18) Where the registrar receives a complaint in respect of a person licensed to manage the property of condominium corporations and so requests in writing, the person receiving the request shall furnish the registrar with such information respecting the matter complained of as the registrar requires.

Inspections (19) The registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a person licensed to manage properties to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

5. Sections 57 and 58 of the said Act are repealed and the following substituted therefor:

Review officers **57.—**(1) The Lieutenant Governor in Council shall appoint review officers who shall perform the duties and exercise the powers given to them by this Act and the regulations and the officers so appointed shall be public servants within the meaning of the *Public Service Act*.

R.S.O. 1980,
c. 418

Reference to tribunal

(2) Where there is a dispute between a corporation and an owner, between two or more owners, between a corporation and the condominium manager or between an owner and the condominium manager in respect of any matter relating to this Act, the declaration, by-laws or rules, the parties to the dispute may, prior to the commencement of any court proceeding in respect of the same matter, refer the matter in dispute to the tribunal for arbitration and resolution.

Written notice

(3) Within fourteen clear days after the matter has been referred to the tribunal, the tribunal shall give written notice

to all parties of the date, time and place for the consideration of the matter in dispute and shall designate a review officer to hear the matter in dispute.

(4) For the purpose of a hearing under subsection (3), the review officer may inquire into any matter relevant to the subject-matter of the dispute, whether or not previously brought to his attention by the parties.

Inquiry
by review
officer

(5) Upon completing the hearing, the review officer may make an order ordering any party to the hearing to do or to refrain from doing any act that is the subject-matter of the hearing.

Order
by review
officer

(6) An order under subsection (5) shall state that every party to the hearing is entitled to appeal the order to the tribunal and shall specify the place where the appeal may be filed.

Appeal to
tribunal

(7) On the request of any party to the hearing, the review officer shall file a copy of any order made by him under subsection (5) in the office of the Registrar of the Supreme Court under section 19 of the *Statutory Powers Procedure Act* that applies thereto.

Filing copy
of order

(8) Except as provided in subsection (7), the *Statutory Powers Procedure Act* does not apply to proceedings before the review officer.

Application
of
R.S.O. 1980,
c. 484

(9) Every party to a hearing may appeal a review officer's order by filing a notice of appeal with the tribunal within twenty-one days after being served with notice of the review officer's order.

Notice of
appeal

(10) On an appeal, the tribunal may proceed by way of a hearing *de novo* and, after the hearing, the tribunal may make any order it considers just and equitable and, for such purposes, the tribunal shall substitute its order for that of the review officer.

Powers of
tribunal

(11) The registrar may appoint a provincial advisory committee to advise him in matters relating to the management of the property of corporations and the conduct of licensees.

Advisory
committee

(12) The provincial advisory committee shall consist of,

Membership
of
committee

(a) a chairman;

(b) three members who represent owners of units for residential purposes; and

- (c) three members nominated by the Association of Condominium Managers.

Terms of office

(13) The members of the provincial advisory committee shall be appointed for terms of one, two or three years and, having served a term, shall not be reappointed for at least two years.

Vacancy

(14) When a vacancy occurs on the provincial advisory committee during a term of office, the registrar may fill the vacancy for the unexpired portion of the term.

6. Subsection 59 (1) of the said Act is amended by adding thereto the following clause:

- (sa) requiring licensees, or any class thereof, to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds.

7. The said Act is further amended by adding thereto the following section:

Regulations

59a. Subject to the approval of the Lieutenant Governor in Council, the Association of Condominium Managers may make regulations setting standards for the management of the property of corporations, including standards for the conduct of condominium managers.

Commencement

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Condominium Amendment Act, 1984*.

Bill 24

An Act to amend the Condominium Act

Mr. Philip

1st Reading April 2nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would authorize condominium corporations to make by-laws providing for the collection of special levies from owners of residential units that are occupied by tenants.

Bill 24

1984

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 28 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ha) to require owners of units for residential purposes that are leased to pay special levies in respect of the leased units, and to fix the amounts and govern the assessment and collection of the special levies.

2.—(1) Subsection 32 (1) of the said Act is amended by adding at the end thereof “and shall pay such special levies as are required by a by-law made under clause 28 (1) (ha)”.

(2) Subsection 32 (4) of the said Act is amended by inserting after “expenses” in the second line “or to pay a special levy”.

(3) Subsection 32 (8) of the said Act is amended by inserting after “expenses” in the fourth line “and special levies, if any”.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Condominium Amendment Act, 1984*. Short title

Bill 25

An Act to amend the Game and Fish Act

Mr. Philip

1st Reading April 2nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The definitions of "body-gripping trap" and "leg-hold trap" are reworded to differentiate more clearly among the types of traps. A "body-gripping trap" does not include a "leg-hold trap" and neither type of trap includes a snare.

The definition of "trap" is expanded to include a pitfall.

SECTION 2. Subsection 2 (3) is amended to refer to proposed section 30a.

SECTION 3. Section 30 now reads as follows:

30.—(1) *In this section, "animal" includes any domestic, fur-bearing or game animal.*

(2) *No person shall trap or attempt to trap any animal by means of a body-gripping trap or leg-hold trap.*

(3) *Subsection (2) does not apply,*

(a) *to a person who holds a licence to hunt or trap fur-bearing animals;*

(b) *to a farmer who uses a body-gripping trap or leg-hold trap on his own lands in defence or preservation of his property or in circumstances referred to in subsection 62 (7);*

(c) *to a person who uses a body-gripping trap or leg-hold trap designated by the Minister as a humane trap.*

(4) *The Minister may, with the approval of the Lieutenant Governor in Council, make an order designating areas or municipalities in Ontario in which the prohibition set out in subsection (2) does not apply.*

(5) *The Minister may, with the approval of the Lieutenant Governor in Council, make an order designating any body-gripping trap or leg-hold trap as a humane trap for the purpose of clause (3) (c).*

The new section would prohibit the use of all traps (including body-gripping traps, leg-hold traps and snares), except designated unrestricted humane traps and specified traps permitted for use by farmers and trappers.

Subsections 30 (3) and (4). Farmers and trappers are permitted to use leg-hold traps and snares, but only under water. They are permitted to use padded leg-hold traps on land, but only for trapping wolf and fox, traps designated for use for wolf and fox, designated restricted humane traps (the quick-killing traps, including snares, intended for use only by experienced users, that the industry currently refers to as "humane traps") and designated humane body-gripping traps.

Subsection 30 (5). Anyone may use a designated unrestricted humane trap (intended for use by inexperienced users without endangering children or pets).

Subsection 30 (6). The Minister is empowered to designate various types of traps, but is no longer empowered to exempt areas or municipalities from the prohibition in subsection 30 (2) (see existing subsection 30 (4) of the Act).

SECTION 4. *Subsection 30a (1).* A person who sets a live-holding trap (a category which may include designated unrestricted humane traps) must inspect it daily (in the parts of Ontario south of the C.N.R. line) or once every three days (in the parts of Ontario north of that line).

Subsection 30a (2). A mechanically unfit trap may cause unnecessary pain and suffering to the captured animal.

Subsections 30a (3) to (6). The possession and sale of operative traps are forbidden, except for farmers, trappers and dealers. The prohibition does not apply to designated unrestricted humane traps or to collectors with permits issued by the Minister.

Section 30b. A trap exchange program would permit old traps to be modified and updated, and would provide a means of introducing new appropriate traps.

SECTION 5. Subsection 1 (6) of Ontario Regulation 673/82 reads as follows:

(6) No person shall set a leg-hold trap for beaver, otter or mink unless the trap is,

(a) set under ice; or

(b) attached to,

(i) a sliding lock on a drowning wire or a device that will immediately submerge the captured animal in water and prevent it from resurfacing, or

*(ii) a heavy object that will dislodge immediately upon springing of the trap and will submerge the captured animal in water and prevent it from resurfacing;
or*

(c) sufficiently heavy and set in such a manner, where the trap is set for mink, to submerge the captured mink in water immediately upon springing of the trap and prevent it from resurfacing.

The same subject-matter is dealt with more extensively by proposed subsection 30 (3) (section 3 of the Bill) which would apply to muskrat as well as to other aquatic species.



Bill 25

1984

An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraphs 3, 18 and 35 of section 1 of the *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

3. "body-gripping trap" means a trap designed to capture an animal by seizing and holding it by any part of its body, except the leg or foot, but does not include a snare or a trap designed to capture a mouse or rat;

18. "leg-hold trap" means a trap designed to capture an animal by seizing and holding it by the leg or foot, but does not include a snare or a trap designed to capture a mouse or rat;

35. "trap" means a spring trap, body-gripping trap, leg-hold trap, gin, pitfall, deadfall, snare, box or net used to capture an animal, but does not include a snare or a trap designed to capture a mouse or a rat, and "trapping" has a corresponding meaning.

2. Subsection 2 (3) of the said Act is repealed and the following substituted therefor:

(3) Notwithstanding subsection (1), this Act applies to domestic animals and to persons referred to in clause (1) (b) ^{Idem} in respect of the restrictions in sections 30 and 30a on the use of traps.

3. Section 30 of the said Act is repealed and the following substituted therefor:

Interpretation **30.**—(1) In this section and in section 30a, “animal” includes a domestic, fur-bearing or game animal.

Prohibition (2) No person shall trap or attempt to trap an animal.

Exception:
licensed
trapper (3) Subsection (2) does not apply to the holder of a licence to hunt or trap fur-bearing animals who uses,

(a) a body-gripping trap designated by the Minister as a humane body-gripping trap under clause (6) (a);

(b) a leg-hold trap or a snare that is,

(i) set under ice,

(ii) equipped with a sliding lock on a drowning wire or a device that will, immediately upon springing of the trap, submerge the captured animal completely and prevent every part of it from resurfacing, or

(iii) attached to a heavy object that will, immediately upon springing of the trap, dislodge so as to submerge the captured animal completely and prevent every part of it from resurfacing;

(c) a leg-hold trap that is set for mink or muskrat and is sufficiently heavy and set in such a manner that it will, immediately upon springing of the trap, submerge the captured animal completely and prevent every part of it from resurfacing;

(d) a padded leg-hold trap that is set for wolf or fox, or a trap that is designated by the Minister under clause (6) (b) as a trap for wolf or fox; or

(e) a trap designated by the Minister as a restricted humane trap under clause (6) (c).

Exception:
farmer

(4) Subsection (2) does not apply to a farmer who uses a trap described in subsection (3), in the manner described in that subsection, on his own lands in defence or preservation of his property or in circumstances referred to in subsection 62 (7).

Exception:
unrestricted
humane trap

(5) Subsection (2) does not apply to a person who uses a trap designated by the Minister under clause (6) (d) as an unrestricted humane trap.

(6) The Minister may, with the approval of the Lieutenant Governor in Council, make an order designating, Minister may designate traps

- (a) a body-gripping trap as a humane body-gripping trap for the purpose of clause (3) (a);
- (b) a trap, other than an unmodified steel-jawed leg-hold trap, as a trap for wolf or fox, for the purpose of clause (3) (d);
- (c) a trap as a restricted humane trap for the purpose of clause (3) (e); and
- (d) a trap as an unrestricted humane trap for the purposes of subsection (5) and subsection 30a (5).

4. The said Act is amended by adding thereto the following sections:

30a.—(1) Every person who sets a trap capable of holding or set to hold an animal alive shall tend the trap, Regular inspections of live-holding traps

- (a) where it is set in the part of Ontario south of the northernmost east-west line of the Canadian National Railway, at least once in every twenty-four hour period; and
- (b) where it is set in the part of Ontario north of the northernmost east-west line of the Canadian National Railway, at least once in every seventy-two hour period.

(2) No person shall set a trap that is mechanically unfit. Fitness

(3) No person shall purchase or possess a trap, except, Prohibition

- (a) a farmer;
- (b) the holder of a licence to hunt or trap fur-bearing animals;
- (c) a dealer in traps; or
- (d) a person to whom the Minister has issued a collector's permit under subsection (6).

(4) No person shall give possession of or sell a trap to any person except a person referred to in subsection (3). Idem

(5) Subsections (3) and (4) do not apply to, Exceptions: inoperative trap, unrestricted humane trap

- (a) a trap that has been made inoperative; or
- (b) a trap designated by the Minister as an unrestricted humane trap under clause 30 (6) (d).

Collector's
permit

(6) The Minister may issue a collector's permit to a person permitting the person to possess operative traps, and may impose terms and conditions on the permit.

Trap
exchange
program

30b. The Minister may establish and maintain a trap exchange program permitting farmers and holders of licences to hunt or trap fur-bearing animals to exchange leg-hold traps and unmodified Conibear traps for traps that are designated by the Minister under subsection 30 (6).

5. Subsection 1 (6) of Ontario Regulation 673/82, made under the said Act, shall be deemed to be revoked.

Commence-
ment

6. This Act comes into force on the 1st day of October, 1984.

Short title

7. The short title of this Act is the *Game and Fish Amendment Act, 1984*.

Bill 26

An Act to amend the Highway Traffic Act

Mr. Peterson

1st Reading April 3rd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Subsection 109 (12) of the *Highway Traffic Act* now reads as follows:

(12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to,

- (a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call; or*
- (b) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.*

The amendment would permit ambulance drivers to exceed prescribed speed limits in situations of urgency.

Bill 26

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

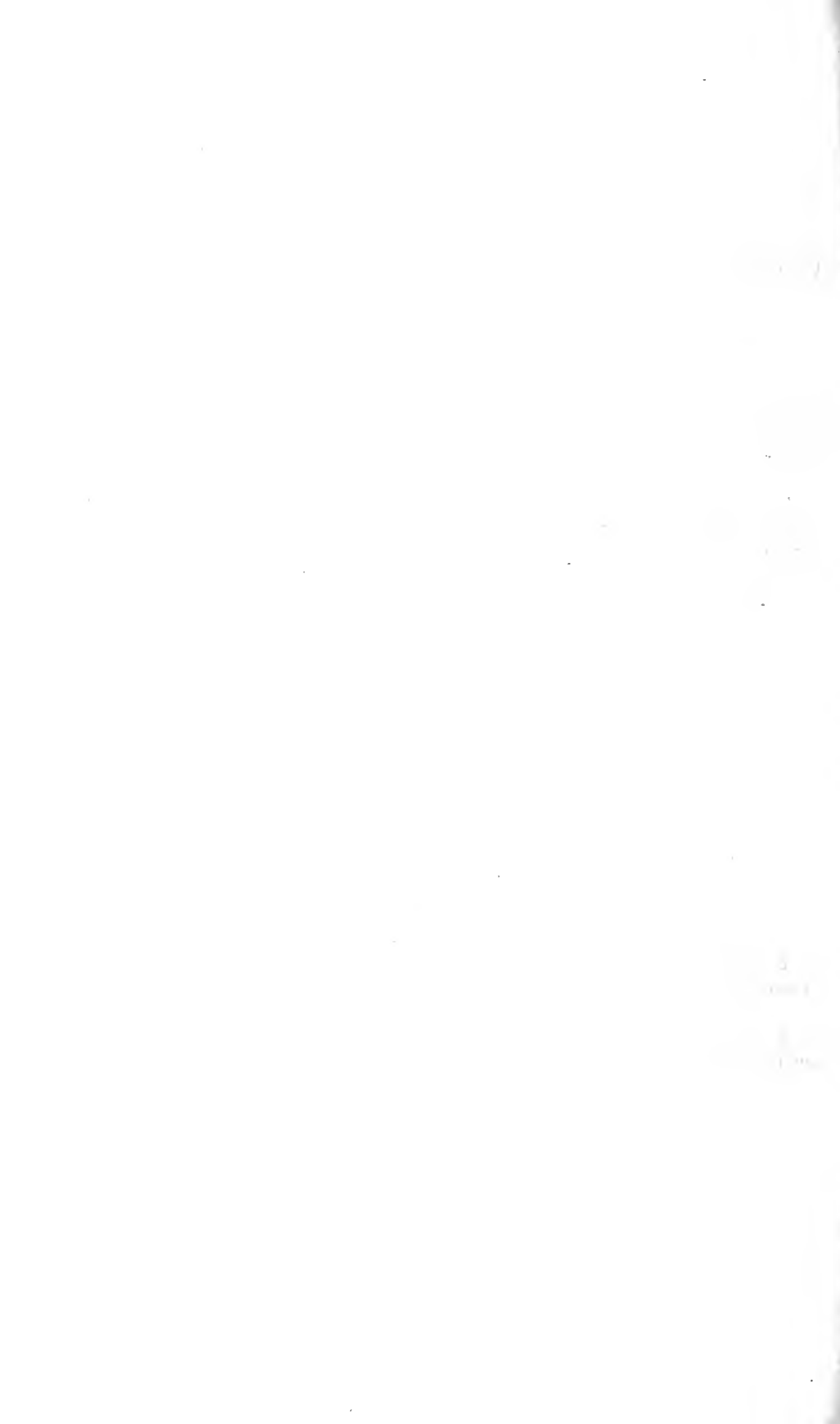
1. Subsection 109 (12) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to, Emergency and police vehicles

- (a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call;
- (b) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation; or
- (c) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Highway Traffic Amendment Act, 1984*. Short title



Bill 27

An Act to amend the Healing Arts Radiation Protection Act

The Hon. K. C. Norton
Minister of Health

1st Reading April 5th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The amendment restricts the use of computerized axial tomography (C.A.T.) scanners to hospitals or other facilities prescribed by the regulations.

Bill 27

1984

**An Act to amend the
Healing Arts Radiation Protection Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The *Healing Arts Radiation Protection Act*, being chapter 195 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a.—(1) In this section, “hospital” has the same meaning as in the *Public Hospitals Act*.

Interpretation
R.S.O. 1980,
c. 410

(2) No person shall install or operate or cause or permit the installation or operation of a computerized axial tomography scanner except,

C.A.T.
scanners

- (a) in a hospital or other facility;
- (b) in a hospital within a class of hospitals; or
- (c) in a facility within a class of facilities,

prescribed by the regulations.

(3) No person shall install or operate or cause or permit the installation or operation of more computerized axial tomography scanners,

Idem

- (a) in a hospital or other facility;
- (b) in a hospital within a class of hospitals; or
- (c) in a facility within a class of facilities,

than the number of computerized axial tomography scanners prescribed by the regulations in respect of the hospital or other facility or the class of hospitals or facilities of which the hospital or facility is a member.

(2) Section 22a of the said Act, as enacted by subsection (1), does not apply in respect of a computerized axial tomography scanner that has been installed before the coming into force of this section.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Healing Arts Radiation Protection Amendment Act, 1984*.

Bill 27

(Chapter 9
Statutes of Ontario, 1984)

An Act to amend the Healing Arts Radiation Protection Act

The Hon. K. C. Norton
Minister of Health

<i>1st Reading</i>	April 5th, 1984
<i>2nd Reading</i>	April 26th, 1984
<i>3rd Reading</i>	May 1st, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 27

1984

An Act to amend the
Healing Arts Radiation Protection Act

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1.—(1) The Healing Arts Radiation Protection Act, being
chapter 195 of the Revised Statutes of Ontario, 1980, is
amended by adding thereto the following section:

22a.—(1) In this section, "hospital" has the same mean-
ing as in the Public Hospitals Act.

Interpretation
R.S.O.1980,
c. 410

(2) No person shall install or operate or cause or permit the
installation or operation of a computerized axial tomography
scanner except,

C.A.T.
scanners

- (a) in a hospital or other facility;
(b) in a hospital within a class of hospitals; or
(c) in a facility within a class of facilities,

prescribed by the regulations.

(3) No person shall install or operate or cause or permit the
installation or operation of more computerized axial tomogra-
phy scanners,

Idem

- (a) in a hospital or other facility;
(b) in a hospital within a class of hospitals; or
(c) in a facility within a class of facilities,

than the number of computerized axial tomography scanners
prescribed by the regulations in respect of the hospital or
other facility or the class of hospitals or facilities of which the
hospital or facility is a member.

(2) Section 22a of the said Act, as enacted by subsection (1), does not apply in respect of a computerized axial tomography scanner that has been installed before the coming into force of this section.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Healing Arts Radiation Protection Amendment Act, 1984*.

Bill 28

An Act to provide for the Implementation of the Young Offenders Act (Canada)

The Hon. Frank Drea
Minister of Community and Social Services

1st Reading April 5th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill is required for the implementation in Ontario of the *Young Offenders Act* (Canada), whose proclamation date is April 2, 1984.

SECTION 1. Self-explanatory.

SECTION 2. The Minister may appoint provincial directors (a term used in the *Young Offenders Act* (Canada)), probation officers and program supervisors.

SECTION 3. The Minister may provide services and programs under this Act directly or through agreements with agencies. Existing observation and detention homes and training schools, and their funding, are continued.

SECTION 4. Program supervisors have general powers of inspection in connection with services and programs under this Act. It is an offence to obstruct an inspector or to give the inspector false information about services or programs under this Act. The maximum fine is \$2,000.

SECTION 5. Self-explanatory.

SECTION 6. Young persons sentenced to terms of imprisonment under the *Provincial Offences Act* will be dealt with in the same way as young persons sentenced to open custody under the *Young Offenders Act* (Canada).

SECTION 7. This section deals with the apprehension of young persons who are absent without permission from places of custody or detention where they are being held under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*.

SECTION 8. Self-explanatory.

SECTION 9. Amendments to the *Child Welfare Act*.

Subsection 1. The definition of "place of safety" is brought into line with the terminology of the *Young Offenders Act* (Canada).

Subsection 2. Proposed subsections 21 (3), (3a) and (3b) set out police powers and procedures in respect of children under twelve, who may not be convicted of offences under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*. Proposed subsection (3c) deals with the apprehension of children who are absent without permission from places of safety where they are being detained under the *Child Welfare Act*.

Subsection 3. References to observation and detention homes and training schools are replaced by references to places of custody or detention under the *Young Offenders Act* (Canada).

Subsections 4 and 5. The repealed subsections refer to the *Juvenile Delinquents Act* (Canada).

SECTION 10. Self-explanatory.

SECTION 11. The repealed provisions relate to observation and detention homes and probation officers.

SECTION 12. Self-explanatory.

SECTION 13. The repealed section deals with probation officers.

Bill 28

1984

**An Act to provide for the
Implementation of the
Young Offenders Act (Canada)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "child" means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) "Minister" means the Minister of Community and Social Services;
- (c) "place of open custody" means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (d) "place of secure custody" means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (e) "place of temporary detention" means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada);
- (f) "prescribed" means prescribed by the regulations;
- (g) "regulations" means the regulations made under this Act;
- (h) "services and programs" means,
 - (i) prevention programs,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
 - (iii) open and secure custody programs,
 - (iv) probation services,
 - (v) programs for the administration and supervision of dispositions, and
 - (vi) other related services and programs;
- (i) "young person" means a person who is, or, in the absence of evidence to the contrary, appears to be,
- (i) twelve years of age, or more, but
 - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments
by Minister

2.—(1) The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Young Offenders Act* (Canada), and
 - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Young Offenders Act* (Canada), and
 - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
 - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

29-30-31,
Eliz. II,
c. 110 (Can.)

R.S.O. 1980,
c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject. Limitations, etc., on appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer. Probation officer has powers of peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations. Remuneration and expenses
R.S.O. 1980, c. 418

3.—(1) The Minister may,

Services and programs

(a) establish, operate and maintain services and programs; and

(b) make agreements with persons for the provision of services and programs,

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations. 29-30-31, Eliz. II, c. 110 (Can.)
R.S.O. 1980, c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations. Observation and detention homes and training schools continued
R.S.O. 1980, cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records. Powers of program supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor. Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports and information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young persons in open custody R.S.O. 1980, c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31, Eliz. II, c. 110 (Can.)

Apprehension of young person absent from place of temporary detention R.S.O. 1980, c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:
place of
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young
person to
be returned
within forty-
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to
apprehend
young
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority
to enter,
etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act* (Canada) or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
 - (i) probation officers,
 - (ii) program supervisors, and
 - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

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- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,
Eliz. II,
c. 110 (Can.)

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension
of child
under twelve

- (a) as soon as practicable, return the child to the child's parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to
parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child
not returned
to parent,
etc., within
twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension
of child
absent from
place of
temporary
detention
29-30-31,
Eliz. II,
c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of
entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984. Transition
R.S.C. 1970,
c. J-3

10. The *Children's Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

11.—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home. Transition

12.—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated. Transition

13. Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

14. This Act shall be deemed to have come into force on the 2nd day of April, 1984. Commence-
ment

15. The short title of this Act is the *Young Offenders Implementation Act, 1984*. Short title

Bill 28

An Act to provide for the Implementation of the Young Offenders Act (Canada)

The Hon. Frank Drea
Minister of Community and Social Services

1st Reading April 5th, 1984

2nd Reading May 29th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

The Bill is required for the implementation in Ontario of the *Young Offenders Act* (Canada), whose proclamation date is April 2, 1984.

SECTION 1. Self-explanatory.

SECTION 2. The Minister may appoint provincial directors (a term used in the *Young Offenders Act* (Canada)), probation officers and program supervisors.

SECTION 3. The Minister may provide services and programs under this Act directly or through agreements with agencies. Existing observation and detention homes and training schools, and their funding, are continued.

SECTION 4. Program supervisors have general powers of inspection in connection with services and programs under this Act. It is an offence to obstruct an inspector or to give the inspector false information about services or programs under this Act. The maximum fine is \$2,000.

SECTION 5. Self-explanatory.

SECTION 6. Young persons sentenced to terms of imprisonment under the *Provincial Offences Act* will be dealt with in the same way as young persons sentenced to open custody under the *Young Offenders Act* (Canada).

SECTION 7. This section deals with the apprehension of young persons who are absent without permission from places of custody or detention where they are being held under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*.

SECTION 8. Self-explanatory.

SECTION 9. Amendments to the *Child Welfare Act*.

Subsection 1. The definition of "place of safety" is brought into line with the terminology of the *Young Offenders Act* (Canada).

Subsection 2. Proposed subsections 21 (3), (3a) and (3b) set out police powers and procedures in respect of children under twelve, who may not be convicted of offences under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*. Proposed subsection (3c) deals with the apprehension of children who are absent without permission from places of safety where they are being detained under the *Child Welfare Act*.

Subsection 3. References to observation and detention homes and training schools are replaced by references to places of custody or detention under the *Young Offenders Act* (Canada).

Subsections 4 and 5. The repealed subsections refer to the *Juvenile Delinquents Act* (Canada).

SECTION 10. Self-explanatory.

SECTION 11. The repealed provisions relate to observation and detention homes and probation officers.

SECTION 12. Self-explanatory.

SECTION 13. The repealed section deals with probation officers.

Bill 28

1984

**An Act to provide for the
Implementation of the
Young Offenders Act (Canada)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "child" means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) "Minister" means the Minister of Community and Social Services;
- (c) "place of open custody" means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act (Canada)*;
- (d) "place of secure custody" means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act (Canada)*;
- (e) "place of temporary detention" means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act (Canada)*;
- (f) "prescribed" means prescribed by the regulations;
- (g) "regulations" means the regulations made under this Act;
- (h) "services and programs" means,
 - (i) prevention programs,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
 - (iii) open and secure custody programs,
 - (iv) probation services,
 - (v) programs for the administration and supervision of dispositions, and
 - (vi) other related services and programs;
- (i) "young person" means a person who is, or, in the absence of evidence to the contrary, appears to be,
- (i) twelve years of age, or more, but
 - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments
by Minister

2.—(1) The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Young Offenders Act* (Canada), and
 - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Young Offenders Act* (Canada),
 - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
 - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

29-30-31,
Eliz. II,
c. 110 (Can.)

R.S.O. 1980,
c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

Limitations, etc., on appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer.

Probation officer has powers of peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations.

Remuneration and expenses

R.S.O. 1980, c. 418

3.—(1) The Minister may,

Services and programs

(a) establish, operate and maintain services and programs; and

(b) make agreements with persons for the provision of services and programs,

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations.

29-30-31, Eliz. II, c. 110 (Can.)
R.S.O. 1980, c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations.

Observation and detention homes and training schools continued
R.S.O. 1980, cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records.

Powers of program supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor.

Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse

Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports and information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young persons in open custody R.S.O. 1980, c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31, Eliz. II, c. 110 (Can.)

Apprehension of young person absent from place of temporary detention R.S.O. 1980, c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:
place of
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young
person to
be returned
within forty-
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to
apprehend
young
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority
to enter,
etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act (Canada)* or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
 - (i) probation officers,
 - (ii) program supervisors, and
 - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

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Eliz. II,
c. 110 (Can.)

- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,
Eliz. II,
c. 110 (Can.)

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension
of child
under twelve

- (a) as soon as practicable, return the child to the child’s parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to
parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child
not returned
to parent,
etc., within
twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension
of child
absent from
place of
temporary
detention
29-30-31,
Eliz. II,
c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of
entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984.

Transition

R.S.C. 1970,
c. J-3

10. The *Children's Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

11.—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsections 204 (1), (2) and (3) of the *Courts of Justice Act, 1984*, being chapter 11, are repealed and the following substituted therefor:

(1) The *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed.

(3) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home.

Transition

12.—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated.

Transition

13. Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

14. This Act shall be deemed to have come into force on the 2nd day of April, 1984.

Short title

15. The short title of this Act is the *Young Offenders Implementation Act, 1984*.

Bill 28

*(Chapter 19
Statutes of Ontario, 1984)*

An Act to provide for the Implementation of the Young Offenders Act (Canada)

The Hon. Frank Drea
Minister of Community and Social Services

<i>1st Reading</i>	April 5th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	June 13th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 28

1984

**An Act to provide for the
Implementation of the
Young Offenders Act (Canada)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "child" means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) "Minister" means the Minister of Community and Social Services;
- (c) "place of open custody" means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act (Canada)*;
- (d) "place of secure custody" means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act (Canada)*;
- (e) "place of temporary detention" means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act (Canada)*;
- (f) "prescribed" means prescribed by the regulations;
- (g) "regulations" means the regulations made under this Act;
- (h) "services and programs" means,
 - (i) prevention programs,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
 - (iii) open and secure custody programs,
 - (iv) probation services,
 - (v) programs for the administration and supervision of dispositions, and
 - (vi) other related services and programs;
- (i) "young person" means a person who is, or, in the absence of evidence to the contrary, appears to be,
- (i) twelve years of age, or more, but
 - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments
by Minister

2.—(1) The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Young Offenders Act* (Canada), and
 - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Young Offenders Act* (Canada),
 - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
 - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

29-30-31,
Eliz. II,
c. 110 (Can.)

R.S.O. 1980,
c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject. Limitations, etc., on appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer. Probation officer has powers of peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations. Remuneration and expenses
R.S.O. 1980, c. 418

3.—(1) The Minister may, Services and programs

(a) establish, operate and maintain services and programs; and

(b) make agreements with persons for the provision of services and programs,

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations. 29-30-31, Eliz. II, c. 110 (Can.)
R.S.O. 1980, c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations. Observation and detention homes and training schools continued
R.S.O. 1980, cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records. Powers of program supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor. Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports and information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young persons in open custody
R.S.O. 1980,
c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31,
Eliz. II,
c. 110 (Can.)

Apprehension of young person absent from place of temporary detention
R.S.O. 1980,
c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:
place of
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young
person to
be returned
within forty-
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to
apprehend
young
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority to enter, etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act* (Canada) or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
 - (i) probation officers,
 - (ii) program supervisors, and
 - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

29-30-31,
Eliz. II,
c. 110 (Can.)

- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,
Eliz. II,
c. 110 (Can.)

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension
of child
under twelve

- (a) as soon as practicable, return the child to the child’s parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child not returned to parent, etc., within twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension of child absent from place of temporary detention 29-30-31, Eliz.II, c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984.

Transition

R.S.C. 1970,
c. J-3

10. The *Children's Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

11.—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsections 204 (1), (2) and (3) of the *Courts of Justice Act*, 1984, being chapter 11, are repealed and the following substituted therefor:

(1) The *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed.

(3) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home.

Transition

12.—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated.

Transition

13. Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

14. This Act shall be deemed to have come into force on the 2nd day of April, 1984.

Short title

15. The short title of this Act is the *Young Offenders Implementation Act, 1984*.

Bill 29

An Act to amend the Coroners Act

Mr. Wildman

1st Reading April 5th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would:

1. Require inquests into all accidental deaths in work places.
2. Extend standing at those inquests to the worker representatives on the joint health and safety committees of the affected work places and to trade union representatives.
3. Require the Ministry of Labour to deal, in its annual report, with verdicts given and recommendations made in those inquests and to advise persons who had standing of the action taken on the recommendations.

Bill 29

1984

An Act to amend the Coroners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (5) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(5) Where a worker dies as a result of an accident occurring in the course of his employment at a work place as defined in the *Occupational Health and Safety Act*, the person in charge of the work place shall immediately give notice of the death to a coroner and the coroner shall issue his warrant to hold an inquest upon the body.

Notice of death resulting from accident at work place
R.S.O.1980, c. 321

2. Section 41 of the said Act is amended by adding thereto the following subsection:

(1a) Where an inquest is conducted into a death referred to in subsection 10 (5),

Idem, work place fatalities

- (a) the members of the joint health and safety committee, if any, established under subsection 8 (2) of the *Occupational Health and Safety Act*, who represent workers; and
- (b) a person chosen by each trade union, if any, representing the workers,

shall be deemed to be designated as persons with standing at the inquest.

3. Subsection 52 (1) of the said Act is repealed and the following substituted therefor:

(1) The coroner shall forthwith after an inquest return the verdict or finding, with the evidence where the Minister, Crown attorney or Chief Coroner has ordered it to be transcribed, to the Chief Coroner, and shall transmit a copy of the

Return of verdict

verdict or finding and recommendations to the Crown attorney and to every person who had standing at the inquest.

Verdict and recommendations to be transmitted to Minister of Labour

(1a) Where an inquest is conducted into a death referred to in subsection 10 (5), the coroner shall forthwith after the inquest transmit a copy of the verdict or finding and recommendations to the Minister of Labour, who shall report,

- (a) the verdict or finding and the recommendations;
- (b) whether the recommendations were implemented or not, with reasons if they were not implemented; and
- (c) any action taken on the recommendations by the Ministry,

R.S.O. 1980, c. 284

in the next annual report made under section 7 of the *Ministry of Labour Act*.

Ministry's action, etc., to be reported to persons with standing
Commencement

(1b) Before the information referred to in clauses (1a) (a), (b) and (c) is published in the Ministry's annual report, the Minister shall ensure that a copy of the information is provided to every person who had standing at the inquest.

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Coroners Amendment Act, 1984*.

Bill 30

An Act to amend the Compensation for Victims of Crime Act

Mr. Kennedy

1st Reading April 6th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to extend the eligibility for compensation under the *Compensation for Victims of Crime Act* to any person who has been convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed.

The circumstances under which such a person would be eligible for compensation are set out in the new subsection 5 (2). The person must have been convicted and sentenced to prison after having pleaded not guilty to the offence with which he was charged. Under the new subsection 6 (2), an application for compensation can be made when the decision quashing the conviction becomes final.

As set out in the new subsection 7 (3), the victim may receive compensation for expenses actually incurred and pecuniary losses resulting from the imprisonment and for legal expenses incurred in appealing the conviction.

In determining compensation, the Board, as set out in subsection 17 (2), must consider all of the circumstances surrounding the charge, conviction and quashing of the conviction, including the behaviour of the victim.

Under the new subsection 19 (6), the Board may award a lump sum payment to the victim of up to \$15,000 for each year that the victim was imprisoned, to a maximum of \$60,000.

Other amendments contained in the Bill are complementary to the above-noted amendments.

Bill 30

1984

**An Act to amend the
Compensation for Victims of Crime Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) (g) of the *Compensation for Victims of Crime Act*, being chapter 82 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (g) "victim" means a person injured or killed in the circumstances set out in subsection 5 (1) or a person who is convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed in the circumstances set out in subsection 5 (2).

2. Section 5 of the said Act is amended by adding thereto the following subsection:

(2) Where a person is charged in Ontario with an offence under a Statute of Canada or Ontario and, having pleaded not guilty, is convicted and sentenced to a term of imprisonment and the conviction is subsequently quashed, the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to the victim.

Compensation to imprisoned persons

3.—(1) Section 6 of the said Act is amended by inserting after "compensation" in the first line "under subsection 5 (1)".

(2) The said section 6 is further amended by adding thereto the following subsections:

(2) An application for compensation under subsection 5 (2) shall not be made until the date on which the decision or order quashing the conviction becomes final and shall be made within one year of that date.

Idem

Final
decision

(3) For the purposes of subsection (2), a decision or order quashing a conviction becomes final when the guilt or innocence of the victim has been finally determined and no further right of appeal or right to apply for leave to appeal remains.

4.—(1) Subsection 7 (1) of the said Act is amended by adding at the commencement thereof “In an application under subsection 5 (1)”.

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

Idem

(3) In an application under subsection 5 (2), compensation may be awarded for,

- (a) expenses actually and reasonably incurred as a result of the victim's imprisonment;
- (b) pecuniary loss incurred by the victim as a result of the victim's imprisonment during the period of imprisonment; and
- (c) legal expenses actually and reasonably incurred in appealing the conviction.

5. Section 17 of the said Act is repealed and the following substituted therefor:

Considerations
of
Board

17.—(1) In determining whether to make an order for compensation under subsection 5 (1) and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death.

Idem

(2) In determining whether to make an order for compensation under subsection 5 (2) and the amount thereof, the Board shall have regard to all relevant circumstances surrounding the charge, conviction and quashing of the conviction, including the behaviour of the victim.

Idem

(3) The Board may, in its discretion, refuse to make an order for compensation under subsection 5 (1) where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency.

Idem

(4) In assessing pecuniary loss, the Board shall take into consideration any benefit, compensation or indemnity payable to the applicant from any source.

6. Section 19 of the said Act is amended by adding thereto the following subsection:

(6) The amount awarded by the Board to be paid in respect of an application under subsection 5 (2) shall not exceed \$15,000 for each year that the victim was imprisoned and shall not exceed \$60,000 in total, and the amount awarded shall be paid in a lump sum. Maximum awards for victim in application under s. 5 (2)

7. This Act comes into force on the day it receives Royal Assent. Commencement

8. The short title of this Act is the *Compensation for Victims of Crime Amendment Act, 1984.* Short title







Bill 31

An Act to establish Midwifery as a Self-governing Health Profession

Mr. Cooke

1st Reading April 6th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to establish midwifery as an independent, self-governing health profession along the lines of medicine and nursing.

Bill 31

1984

**An Act to establish Midwifery
as a Self-governing Health Profession**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III-A

MIDWIFERY

67a.—(1) In this Part,

Interpretation

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Midwives of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of midwifery issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of midwifery” means the supervision, care and counselling of women before, during and after pregnancy and labour, and includes,
 - (i) conducting normal deliveries independently,
 - (ii) caring for the newborn,
 - (iii) taking preventive measures,

- (iv) detecting abnormal conditions in mothers and the newborn,
 - (v) obtaining medical assistance,
 - (vi) taking emergency measures in the absence of medical assistance, and
 - (vii) providing counselling and education to the community concerning health, preparation for birth and parenthood, family planning and child care;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
 - (h) "Registrar" means the Registrar of the College;
 - (i) "regulations" means the regulations made under this Part.

Health
discipline

(2) The practice of midwifery is a health discipline to which this Part applies.

College of
Midwives
established

67b.—(1) The College of Midwives of Ontario is established as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of midwifery and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of midwifery;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

67c.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his or her membership by filing a written resignation with the Registrar and the member's licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct while a member. Resignation of membership

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct as a member. Cancellation of fees

67d.—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs. Council of the College

(2) The Council shall be composed of, Composition of Council

(a) not fewer than eighteen and not more than twenty-five persons who are members and are elected by the members in the manner provided by the regulations; and

(b) not fewer than six and not more than ten persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

(3) The persons appointed under clause (2) (b) shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(4) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of the person's appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

Qualifica-
tions to
vote:
members

- (5) Every member who is,
- (a) resident in Ontario;
 - (b) licensed to practise midwifery; and
 - (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

President
and Vice-
President

(6) The Council shall elect annually a President and Vice-President from among its members.

Registrar
and
officers

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

Quorum

(8) A majority of the members of the Council constitutes a quorum.

Powers of
Minister

67e. In addition to the powers and duties conferred under Part I, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

67f. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;

- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) requiring every member to file with the Registrar annually a plan for consultation with physicians licensed under Part III and for emergency care of the member's patients by a physician or physicians, and providing that a member's licence may be suspended for failure to file such a plan annually;
- (i) governing the designation of life members of the College and prescribing their rights and privileges;
- (j) prohibiting the practice of midwifery where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (n) respecting the reporting and publication of decisions in disciplinary matters;

- (o) requiring and providing for the inspection and examination of books, accounts, reports and records of members in connection with their practice;
- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (s) prescribing forms and providing for their use;
- (t) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

By-laws

67g.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of

an annual assessment and provision for representatives at meetings;

- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

Signing
by-law and
resolutions

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Licence to
practise

67h.—(1) No person shall engage in the practice of midwifery, except in the provision of counselling and education referred to in subclause 67a (1) (f) (vii), or hold himself or herself out as engaging in the practice of midwifery, unless the person is licensed under this Part or under Part III.

Proof of
practice

(2) For the purposes of this section, proof of the performance of one act in the practice of midwifery on one occasion is sufficient to establish engaging in the practice of midwifery.

Conflict
with other
health
discipline

(3) A member or person authorized by the regulations may engage in the practice of midwifery notwithstanding that any part of that practice is included in the practice of another health discipline.

Establish-
ment of
committees

67i.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee; and
- (c) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in

office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

67j.—(1) The Executive Committee shall be composed of, Executive Committee

- (a) the President, who shall be chairman of the Committee;
- (b) the Vice-President; and
- (c) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. Duties

67k.—(1) The Registration Committee shall be composed of, Registration Committee

- (a) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council; and
- (b) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration Committee to be chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

67l.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he or she proposes to refuse or to which he or she considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee, Powers and duties of Registration Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of qualifications

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on the member's licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise midwifery, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Discipline Committee

67m.—(1) The Discipline Committee shall be composed of ten members of the Council, four of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Composition of panels

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum and votes

(4) Three members of a panel assigned under subsection (3), one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding

at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(5) Where a panel of the Discipline Committee commences a hearing and the member of the panel who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

Disability
of lay
member

67n.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, and take such action as it considers appropriate, including proceeding under clause (b) as if the complaint were an allegation of professional misconduct or incompetence;
- (b) hear and determine allegations of professional misconduct or incompetence against members,
 - (i) when so directed by the Council or Executive Committee; and
 - (ii) when the Discipline Committee considers it appropriate to deal with a complaint under this clause as if the complaint were an allegation of professional misconduct or incompetence;
- (c) hear and determine matters referred to it under section 67p;
- (d) hold hearings under section 67o; and
- (e) perform such other duties as are assigned to it by the Council.

(2) No action shall be taken by the Committee under clause (1) (a) unless, Idem

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he or she may wish to make concerning the matter; and

- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(3) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional misconduct

(4) A member may be found guilty of professional misconduct by the Committee if,

- (a) he or she has been found guilty of an offence relevant to suitability to practise, upon proof of the conviction; or
- (b) he or she has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(5) The Discipline Committee may find a member to be incompetent if in its opinion the member has displayed in the professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates the member is unfit to continue in practice.

Powers of Discipline Committee

(6) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;

- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion thereof as the Discipline Committee fixes. Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same Continuation on expiry of Committee membership

manner as if the term of office had not expired or been terminated.

Interpretation **670.**—(1) In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection (2);
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he or she no longer be permitted to practise or that the member’s practice be restricted.

Reference to board of inquiry

(2) Where the Registrar receives information leading him or her to believe that a member may be an incapacitated member, the Registrar shall make such inquiry as he or she considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination, the board may order that the member’s licence be suspended until the member complies.

Hearing by Discipline Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Discipline Committee to hold a hearing and may suspend the member’s licence until the determination of the question of the member’s capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Discipline Committee are parties to a proceeding under this section.

Medical evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his or her case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing

the medical facts, findings, conclusions and treatment, to be signed by the practitioner and served upon the other parties to the proceeding,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Discipline Committee shall, after the hearing,

Powers of
Discipline
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
 - (i) revoke the member's licence,
 - (ii) suspend the member's licence for such period as the Committee considers appropriate, or
 - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply with necessary modifications to proceedings of the Discipline Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

67p.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension.

Restoration
of licence

Reference to
Discipline
Committee

(2) The Registrar shall refer the application to the Discipline Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction
by Council
to issue
licence

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investigation
of members

67q.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is

reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon to assist, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Removal of books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he or she considers appropriate.

Report of Registrar

67r.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 67q, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 67q and shall not communicate any such matters to any other person except,

Matters confidential

- (a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) to his or her counsel; or

(c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining
orders

67s.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Penalties

67t.—(1) Every person who contravenes section 67h is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem,
use of
titles

(2) Subject to the provisions of Parts II and V, any person not licensed under this Part or Part III who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he or she is licensed or registered under this Part or is recognized by law or otherwise as a midwife, or who assumes, uses or employs the description or title "midwife" or advertises or holds himself or herself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 67t in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Health Disciplines Amendment Act, 1984*.

Bill 32

An Act to provide for a Basic Residential Power Rate Applicable to the Essential Energy Needs of Residential Households in Ontario

Mr. Sargent

1st Reading April 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment of a basic residential rate for electrical power usage by residential households in Ontario. The basic residential rate is applied to the amount of electrical power required by a typical residential household to fulfil minimum essential energy needs. The proposed amendments to the *Ontario Energy Board Act* require the Board to determine those functions that constitute the minimum essential energy needs of a residential household in Ontario. Each municipal corporation that distributes electrical power must establish a basic residential rate on the basis of the electrical power demand required in its service area to fulfil the minimum energy needs. The Bill sets a maximum level for the basic residential rate and stipulates that the basic residential rate must be the lowest rate for electrical power usage charged by the corporation.

Bill 32

1984

**An Act to provide for a Basic Residential
Power Rate Applicable to the Essential Energy
Needs of Residential Households in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

THE ONTARIO ENERGY BOARD ACT

1. The *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

37a.—(1) The Board shall examine into and determine the minimum essential electrical needs of residents of Ontario and, on or before the 1st day of January, 1985, the Board shall make a report to the Minister listing the functions that constitute the minimum essential electrical needs of a typical residential household in Ontario.

Minimum
essential
electrical
needs

(2) Upon determination of the minimum essential electrical needs referred to in subsection (1), every municipal electric utility commission and every municipal corporation that distributes electrical power in Ontario shall determine the basic demand for electrical energy required to fulfil the minimum essential electrical needs of a typical residential household located in the area to which it distributes electrical power.

Basic
demand for
electrical
power

(3) Every commission and corporation that makes a determination under subsection (2) shall report the determination to the Board and the Board may review and alter the determination where the Board considers it proper.

Report to
Board

PART II

THE POWER CORPORATION ACT

2. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Basic residential rate

95b.—(1) Notwithstanding section 95, any municipal corporation that charges a rate for the distribution of electrical power shall establish a basic residential rate for residential households in the corporation's service area and the basic residential rate shall be applied to that amount of electrical power demand that is equal to the basic demand for electrical energy as determined under section 37a of the *Ontario Energy Board Act*.

R.S.O. 1980, c. 332

Maximum rate

(2) The basic residential rate referred to in subsection (1) shall not exceed the residential rate chargeable immediately prior to the 1st day of January, 1975, plus 50 per cent of any rate increase from the 1st day of January, 1975, to the 1st day of January, 1984.

Basic residential rate to be lowest rate

(3) The basic residential rate charged by a municipal corporation shall be the lowest rate charged by the corporation to any of its customers and a corporation shall not, by means of a discount or otherwise, supply electrical power to a customer at a cost lower than the cost incurred by a person paying the basic residential rate.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Lifeline Act, 1984*.

Bill 33

An Act to prevent unjust enrichment through the Financial Exploitation of Crime

Mr. Renwick

1st Reading April 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill makes moneys earned by accused criminals from the sale of their memoirs payable to the Criminal Injuries Compensation Board, which uses the funds received in each case to satisfy judgments obtained by victims of the crime.

Bill 33

1984

An Act to prevent unjust enrichment through the Financial Exploitation of Crime

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Board" means the Criminal Injuries Compensation Board established under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,
c. 82

(b) "broadcast" means information transmitted by cables, wires, fibre-optic linkages, laser beams or any form of wireless radioelectric communication employing Hertzian waves;

(c) "person accused or convicted of a crime" includes,

(i) a person who has been charged with a crime,

(ii) a person who has been convicted of a crime,
and

(iii) a person who has admitted the commission of a crime for which the person has not been prosecuted;

(d) "victim" means a person who suffers injury, damage or pecuniary loss as a direct result of a crime.

2.—(1) Every person who makes an agreement with a person accused or convicted of a crime, or with the person's agent or assignee, with respect to a book, magazine or newspaper article, broadcast, tape recording, phonograph recording, video recording, live presentation or other representation based upon or concerning the crime shall,

Payments
to Board

(a) provide the Board with a copy of the contract; and

- (b) pay to the Board any moneys which would, under the contract, be payable to the person accused or convicted of the crime, his agent or nominee.

List to be public

(2) The Board shall maintain a complete list of all persons in respect of whom it receives moneys under section 2 and shall make the list available to the public upon request.

Board to hold funds

3.—(1) The Board shall hold all moneys received under section 2 in a special account, which may be an interest-bearing account, shall keep full records as to their source and disbursement and shall deal with the moneys in accordance with this Act.

Interest

(2) Interest earned on moneys received under section 2 forms part of the moneys to be dealt with by the Board in accordance with this Act.

Notice to victims

4.—(1) Where the Board first receives moneys under section 2 in respect of a particular crime, it shall publish, in a newspaper circulated in the community where the crime was committed or alleged to have been committed, at least once every week for four weeks, a notice advising victims of the crime that it holds the moneys and of their rights under this Act.

Idem

(2) The Board may give such further notice to victims as it considers advisable.

Victim may sue
R.S.O. 1980,
cc. 152, 240

5.—(1) Despite subsection 60 (4) of the *Family Law Reform Act* and section 45 of the *Limitations Act*, a victim may bring an action for the recovery of damages against the person accused or convicted of the crime within five years after the date on which the Board first received moneys under section 2 in respect of the crime.

Notice to Board

(2) A victim who commences an action for damages against the person accused or convicted of the crime shall provide the Board with a copy of the statement of claim.

Payment to victim

6.—(1) Where a victim obtains judgment in an action for damages commenced against the person accused or convicted of the crime, the Board, after a day five years and six months after the day the Board first received moneys under this Act, shall pay the amount of the judgment and costs to the victim from the funds it holds under this Act.

Action for damages

(2) Where, on the day named in subsection (1), the Board has notice that a victim has commenced an action for damages against the person accused or convicted of the crime and that

the action has not been finally disposed of, the Board shall not make a payment under subsection (1) until the action has been finally disposed of.

(3) Where the aggregate amount of judgments and costs in respect of a particular crime exceeds the moneys received by the Board in respect of the crime, the Board shall distribute the moneys to the victims on a *pro rata* basis. When funds insufficient

7.—(1) Where, on a day five years and six months after the day the Board first received moneys under this Act in respect of a particular crime, the Board has not been notified of an action commenced against the person accused or convicted of the crime during the five-year period described in subsection 5 (1), the Board shall release the moneys to the person accused or convicted of the crime. Release of funds where no victim sues

(2) Where, after the Board has paid the full amounts of all judgments and costs payable to victims of a particular crime in accordance with this Act, the Board retains a balance of moneys received in respect of the crime, the Board shall pay the balance to the person accused or convicted of the crime. Balance after judgments satisfied

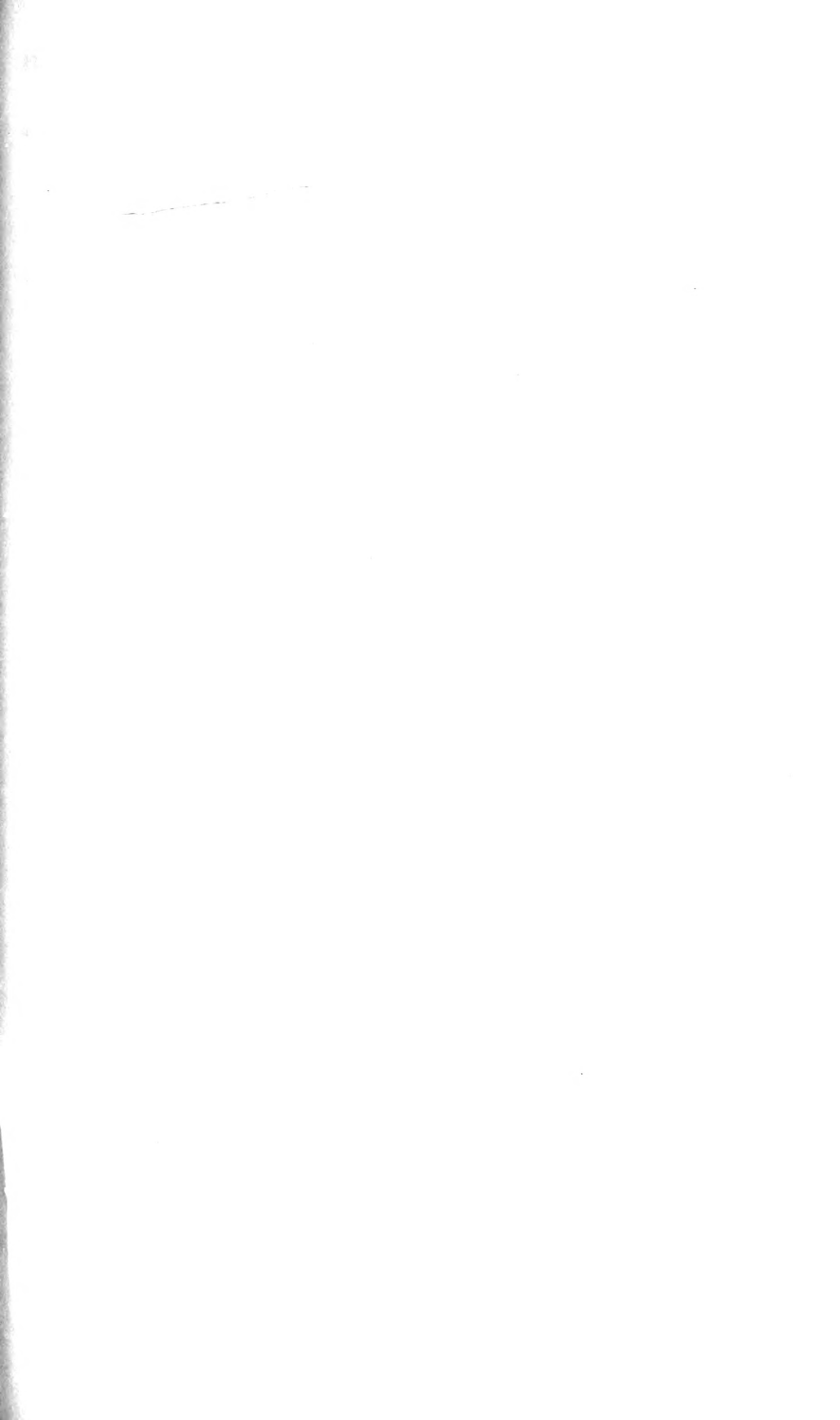
8. Every person who contravenes section 2 of this Act is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000. Penalty

9. Nothing in this Act affects the power of the Board to award compensation to a victim under the *Compensation for Victims of Crime Act*. Board's power under R.S.O. 1980, c. 82

10. This Act comes into force on the day it receives Royal Assent. Commencement

11. The short title of this Act is the *Profits from Crime Act, 1984*. Short title







Bill 34

An Act to control Non-resident Ownership of Agricultural Land in Ontario

Mr. Swart

1st Reading April 10th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is intended to replace the *Non-resident Agricultural Land Interests Registration Act*. Instead of simple registration, it places a ten hectare limit on non-resident ownership of Ontario farm land and provides that compliance may be enforced by an order of the Ontario Farm Ownership Board which would be enforced as an order of the Supreme Court. Non-residents are required to report all their holdings of farm land.

The Ontario Farm Ownership Board may permit, under certain circumstances, non-resident applicants to acquire or hold more land than the ten hectare limit and may impose terms and conditions on its permission.

It is an offence to exceed the ten hectare limit, except with the Board's permission, and the maximum fine is \$100,000. The maximum fine for furnishing false information or obstructing an inspector is \$5,000, and for failing to file a required report is \$25,000.

Bill 34

1984

An Act to control Non-resident Ownership of Agricultural Land in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

(a) “agricultural land” means land in Ontario that,

(i) under a by-law passed under section 34 of the *Planning Act, 1983* or under an order made under section 46 of that Act, is zoned for agricultural use, or

1983, c. 1

(ii) is assessed under the *Assessment Act* or is actually used as farm or agricultural land or as an orchard;

R.S.O. 1980,
c. 31

(b) “Board” means the Ontario Farm Ownership Board established under subsection 7 (1);

(c) “conveyance” includes any document by which an interest in land is conveyed, and, without limiting the generality of the foregoing, includes a mortgage, charge, a final order of foreclosure under a mortgage or charge and an agreement of purchase and sale, and “conveyed” has a corresponding meaning;

(d) “non-resident corporation” means a corporation, regardless of the jurisdiction in which it was formed or organized, that,

(i) is controlled directly or indirectly by one or more non-resident persons,

(ii) has issued shares to which are attached 50 per cent or more of the voting rights ordinarily

exercisable at meetings of shareholders to one or more non-resident persons,

- (iii) has issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to any one non-resident person,
 - (iv) has a board of directors one-half or more of which is composed of non-resident persons, or
 - (v) is a corporation without share capital one-half or more of whose members are non-resident persons;
- (e) "non-resident person" means,
- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor a person who has been lawfully admitted to Canada for permanent residence in Canada,
 - (ii) a non-resident corporation,
 - (iii) a partnership, syndicate, associate or other organization one-half or more of whose members are non-resident persons or in which interests representing 50 per cent or more of the total value of the property of the partnership, syndicate, associate or other organization are beneficially owned by non-resident persons, or
 - (iv) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iii) hold 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom;
- (f) "prescribed" means prescribed by the regulations made under this Act.

Ordinarily
resident
defined

(2) For the purpose of clause (1) (c), an individual shall be considered to be ordinarily resident in Canada who, at the time the expression is being applied,

- (a) has sojourned in Canada for a period or aggregate period of at least 366 days during the immediately preceding twenty-four months;

(b) is a member of the Canadian Forces required to reside outside Canada;

(c) is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;

(d) is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is prescribed for the purposes of paragraph 250 (1) (d) of the *Income Tax Act* (Canada), and resided in Canada at any time in the three month period immediately preceding the day on which the services began; or

(e) resides outside Canada and is the spouse or child of, and is living with, an individual described in clause (b), (c) or (d).

R.S.C. 1952, c. 148

2.—(1) No non-resident person shall acquire an interest in agricultural land by way of a conveyance, purchase of shares in a corporation that has such an interest, or otherwise, except as authorized by the Board under subsection 8 (4), that results in the person holding an interest in an aggregate of more than ten hectares of agricultural land.

Prohibition of non-resident ownership above permitted level

(2) A non-resident person who acquires an interest in agricultural land in contravention of subsection (1) shall, whether another penalty is imposed for the contravention or not, within two years of the day of the acquisition reduce his or her ownership of agricultural land to ten hectares or less.

Excess to be reduced within two years

(3) A non-resident person who on the 1st day of July, 1984 holds an interest in more than ten hectares of agricultural land shall within five years of that day reduce his or her ownership of agricultural land to ten hectares or less, unless the Board authorizes the person to continue to hold a greater interest under subsection 8 (4).

Idem: five years

(4) A person who holds an interest in ten or more hectares of agricultural land and becomes a non-resident person shall within five years of becoming a non-resident person reduce his or her ownership of agricultural land to ten hectares or less, unless the Board authorizes the person to continue to hold a greater interest under subsection 8 (4).

Idem: where owner becomes non-resident

Idem:
inheritance

(5) A non-resident person who acquires an interest in agricultural land under a will or by inheritance that results in the person holding an interest in more than ten hectares of agricultural land shall within five years of the acquisition reduce his or her ownership of agricultural land to ten hectares or less, unless the Board authorizes the person to continue to hold a greater interest under subsection 8 (4).

Registration
report

3.—(1) A non-resident person who acquires an interest in agricultural land on or after the 1st day of July, 1984, whether by way of a conveyance, purchase of shares of a corporation that has such an interest, or otherwise, shall file a registration report in the prescribed form with the Board within ninety days after the registration.

Idem

(2) A non-resident person who has acquired an interest in agricultural land before the 1st day of July, 1984, and, on that day, retains an interest in agricultural land shall file a registration report in the prescribed form with the Board within one year after that day.

Cancellation
notice

(3) A non-resident person who disposes of or conveys away an interest in agricultural land in respect of the acquisition or holding of which a registration report was required to be filed under subsection (1) or (2) shall file a cancellation notice in the prescribed form with the Board within ninety days of the disposition.

Where
resident
becomes
non-resident

(4) A person who holds an interest in agricultural land and subsequently becomes a non-resident person shall file a registration report in the prescribed form with the Board within ninety days of becoming a non-resident.

Where
registration
report not
required

(5) Where a non-resident person files a registration report under this section respecting agricultural land and the registration report or material filed with the report,

- (a) provides information on other non-resident persons who are also required to file a registration report respecting that agricultural land; and
- (b) the information supplied under clause (a) is equivalent in nature and extent to the information required of a non-resident person filing a registration report,

those other non-resident persons are not required to file a separate registration report respecting that agricultural land.

4. Every registration report and cancellation notice shall set forth the prescribed information.

Contents of report and notice

5. Every registration report expires five years after the day on which it is filed and a non-resident person who continues to hold an interest referred to in his or her registration report shall file a new registration report with the Board within thirty days of the expiry of the earlier registration report.

Expiry of registration report

6. For the purposes of this Act, where a person who is a resident of Canada holds or acquires an interest in agricultural land that, if held or acquired by a non-resident person, would be subject to this Act, and knowingly holds that interest on behalf of a non-resident person, by agreement or otherwise, the person shall be deemed to be a non-resident person in respect of that interest.

Where resident deemed to be non-resident

7.—(1) The Ontario Farm Ownership Board is established and shall consist of at least three members appointed by the Lieutenant Governor in Council.

Board established

(2) The Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedures.

Rules

(3) The functions of the Board are,

Functions of Board

(a) to administer and enforce this Act; and

(b) to hear and deal with applications under section 8.

(4) Inspectors required for the administration and enforcement of this Act may be appointed under the *Public Service Act*.

Inspectors
R.S.O. 1980,
c. 418

8.—(1) A non-resident person may apply to the Board for an authorization permitting him or her to acquire an interest in agricultural land that would result in the person holding an interest in an aggregate of more than ten hectares of agricultural land.

Application for Board's authorization

(2) A person to whom subsection 2 (3), (4) or (5) applies may apply to the Board for an authorization permitting him or her to continue to hold an interest in more than ten hectares of agricultural land.

Idem

(3) The Board shall deal with an application made under subsection (1) or (2) within ninety days of receiving it and may, but is not required to, do so by holding a hearing.

Board to deal with application

Powers of Board

(4) On an application made under subsection (1) or (2), the Board may,

- (a) authorize the applicant to acquire or continue to hold an interest in specified agricultural land;
- (b) impose any terms or conditions on the authorization that the Board considers appropriate.

Criteria

(5) The Board may grant an application under subsection (1) or (2) if it finds that it is in the public interest to do so, and, in considering such applications, the Board may have regard to, among other matters, undue hardship which may result from the application of section 2, or evidence that a non-resident will become a resident within a reasonable period of time.

Order

(6) The Board may issue an order to a person having a land holding in contravention of this Act requiring the person to reduce his or her ownership of agricultural land to that permitted under this Act.

Enforcement

(7) The Board may file a copy of its order in the office of the Registrar of the Supreme Court whereupon the order shall be entered in the same way as an order of that court and be enforceable as such.

Obstructing inspector

9.—(1) No person shall hinder or obstruct an inspector in the course of the inspector's duties, furnish him or her with false information, or refuse to permit an inspector to carry out the inspector's duties.

Certification of photocopy

(2) Where a book, record, document or extract that has been furnished to an inspector has been photocopied by the inspector, a photocopy purporting to be certified by the inspector to be a copy is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

False information

10. No person shall knowingly furnish false information in a registration report or cancellation notice filed under this Act.

Offence

11.—(1) Every person who contravenes section 2 and every director or officer of a corporation who acquiesces or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

(2) Every person who fails to file a registration report under section 3 and every director or officer of a corporation who acquiesces or concurs in such a failure by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. Idem

(3) Every person who contravenes subsection 9 (1) or section 10 and every director or officer of a corporation who acquiesces or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Idem

12. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the form of a registration report and the information that must be contained in it;
- (b) prescribing the form of a cancellation notice and the information that must be contained in it;
- (c) prescribing other forms and providing for their use;
- (d) prescribing the powers and duties of inspectors;
- (e) prescribing the documents, records and information that must be furnished to inspectors;
- (f) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

13. The *Non-resident Agricultural Land Interests Registration Act*, being chapter 318 of the Revised Statutes of Ontario, 1980, is repealed.

14. This Act comes into force on the 1st day of July, 1984. Commence-
ment

15. The short title of this Act is the *Ontario Farm Ownership Control Act, 1984*. Short title







Bill 35

An Act to amend the Liquor Licence Act

Mr. Cassidy

1st Reading April 12th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Subsection 6 (2) of the Act in effect prevents the operation of "tied houses" in Ontario. The Bill would create an exception by permitting the Liquor Licence Board to issue licences to small brewers and persons connected with them. "Small brewer" is defined as a manufacturer of beer only who produces less than 2,000 hectolitres of beer annually.

Subsection 6 (2) now reads as follows:

- (2) *No licence shall be issued under this section or renewed and no approval of the transfer of a licence shall be given,*
- (a) *to a person who is under agreement with any person to sell the liquor of any manufacturer;*
 - (b) *to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;*
 - (c) *to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or*
 - (d) *for premises in which a manufacturer of liquor, has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.*

Bill 35

1984

An Act to amend the Liquor Licence Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ma) "small brewer" means a manufacturer who produces less than 2,000 hectolitres of beer annually and produces no other liquor.

2. Subsection 6 (2) of the said Act is repealed and the following substituted therefor:

(2) No licence shall be issued under this section or renewed and no approval of the transfer of a licence shall be given, Where issue
of licence
prohibited

- (a) to a person who has an agreement with another person to sell the liquor of a manufacturer other than a small brewer;
- (b) to a manufacturer of liquor other than a small brewer, to the manufacturer's agent, or to a person who is so associated or connected with the manufacturer or financially interested in the manufacturer's business as to be likely to promote the sale of the manufacturer's liquor;
- (c) to a person who by reason of an agreement or arrangement of any kind, whether verbal or written, or direct or indirect, with another person is or may be likely to promote the sale of liquor of a manufacturer other than a small brewer; or
- (d) for premises in which a manufacturer of liquor other than a small brewer has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mort-

gage, lien or charge upon chattel property on the premises, and whether the interest is direct, indirect, contingent or by way of suretyship or guarantee.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Liquor Licence Amendment Act, 1984*.

Bill 36

An Act to amend the Ministry of Energy Act

The Hon. P. Andrewes
Minister of Energy

1st Reading April 17th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 8 of the Act sets out the objectives of the Ministry. The amendments add to those objectives and add corresponding authority of the Minister.

SECTION 2. New section 8a is added to the Act to assist the Minister in determining the disposition of financial assistance paid under the Act.

SECTION 3.—Subsection 1. Section 9 of the Act authorizes the delegation of powers or duties by the Minister. The amendment removes the requirement that the delegation be approved by the Lieutenant Governor in Council.

Subsection 2. Section 6 of the *Executive Council Act* is as follows:

6. No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council.

Bill 36

1984

An Act to amend the Ministry of Energy Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 8 of the *Ministry of Energy Act*, being chapter 277 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) do any one or more of encouraging, promoting, developing or participating in such activities, projects and programs as the Minister considers appropriate,
 - (i) to increase the availability of energy in Ontario,
 - (ii) to stimulate the search for and development of sources of energy, including those that utilize waste and those that are renewable, as alternatives to the sources of energy available for use in Ontario, and
 - (iii) to encourage prudence in the use of energy in Ontario.

(2) The said section 8 is further amended by adding thereto the following subsection:

(2) The Minister or, subject to the direction and control of the Minister, the Deputy Minister may, in respect of any matter for which the Minister has responsibility under this or any other Act,

Authority of
Minister

- (a) undertake research;
- (b) do any one or more of promoting, commissioning or participating in research, experiments, feasibility

studies, pilot or demonstration projects, testing activities and evaluations;

- (c) develop and co-ordinate plans and programs;
- (d) promote and engage in the dissemination of information;
- (e) enter into agreements for and in the name of the Crown;
- (f) make grants and, subject to the approval of the Lieutenant Governor in Council, make loans.

2. The said Act is amended by adding thereto the following section:

Accounting statement related to financial assistance
R.S.O. 1980, c. 405

8a. The Minister may require a person or an organization that has received financial assistance under this Act to submit to the Minister a statement prepared by an individual licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

3.—(1) Section 9 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the third line.

(2) The said section 9 is further amended by adding thereto the following subsection:

Effect of R.S.O. 1980, c. 147

(2) Notwithstanding the *Executive Council Act*, a contract made by a person empowered to do so by a delegation under subsection (1) has the same effect as if made and signed by the Minister.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Ministry of Energy Amendment Act, 1984*.

Bill 36

*(Chapter 15
Statutes of Ontario, 1984)*

An Act to amend the Ministry of Energy Act

The Hon. P. Andrewes
Minister of Energy

<i>1st Reading</i>	April 17th, 1984
<i>2nd Reading</i>	May 11th, 1984
<i>3rd Reading</i>	May 25th, 1984
<i>Royal Assent</i>	May 29th, 1984

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Bill 36

1984

An Act to amend the Ministry of Energy Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 8 of the *Ministry of Energy Act*, being chapter 277 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) do any one or more of encouraging, promoting, developing or participating in such activities, projects and programs as the Minister considers appropriate,
 - (i) to increase the availability of energy in Ontario,
 - (ii) to stimulate the search for and development of sources of energy, including those that utilize waste and those that are renewable, as alternatives to the sources of energy available for use in Ontario, and
 - (iii) to encourage prudence in the use of energy in Ontario.

(2) The said section 8 is further amended by adding thereto the following subsection:

(2) The Minister or, subject to the direction and control of the Minister, the Deputy Minister may, in respect of any matter for which the Minister has responsibility under this or any other Act,

Authority of
Minister

- (a) undertake research;
- (b) do any one or more of promoting, commissioning or participating in research, experiments, feasibility

studies, pilot or demonstration projects, testing activities and evaluations;

- (c) develop and co-ordinate plans and programs;
- (d) promote and engage in the dissemination of information;
- (e) enter into agreements for and in the name of the Crown;
- (f) make grants and, subject to the approval of the Lieutenant Governor in Council, make loans.

2. The said Act is amended by adding thereto the following section:

Accounting statement related to financial assistance R.S.O. 1980, c. 405

8a. The Minister may require a person or an organization that has received financial assistance under this Act to submit to the Minister a statement prepared by an individual licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

3.—(1) Section 9 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the third line.

(2) The said section 9 is further amended by adding thereto the following subsection:

Effect of R.S.O. 1980, c. 147

(2) Notwithstanding the *Executive Council Act*, a contract made by a person empowered to do so by a delegation under subsection (1) has the same effect as if made and signed by the Minister.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Ministry of Energy Amendment Act, 1984*.

Bill 37

An Act to amend the Ontario Pensioners Property Tax Assistance Act

The Hon. B. Gregory
Minister of Revenue

1st Reading April 17th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill provides two administrative provisions to clarify the provisions relating to the payment of sales tax grants and to provide for a waiver with respect to collecting overpayments of grants in certain circumstances.

SECTION 1. The amendment adds a new subsection to section 7 of the Act to provide for the same time limit on requests for sales tax grants which currently applies on applications for property tax grants, where the recipient has not otherwise received a sales tax grant.

SECTION 2. The amendment adds a new subsection to section 14 to permit the Minister to waive in whole or in part the repayment of grant overpayments where it is deemed unreasonable in the circumstances to demand repayment of the whole amount from a grant recipient or his estate.

SECTION 3. The amendments are deemed to have come into force on the day the Act came into force.

Bill 37

1984

**An Act to amend the
Ontario Pensioners Property Tax Assistance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 14, section 3 and 1981, chapter 45, section 1, is further amended by adding thereto the following subsection:

(3) Where an individual who is eligible to receive a grant under subsection (1) has not received the grant by the end of one month after the year to which the grant relates, no grant is payable under subsection (1) unless the Minister has received a written request therefor not later than twelve months after the end of the year to which the grant relates.

Time limit
for grant

2. Section 14 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection (1), if owing to special circumstances it is deemed unreasonable to demand repayment of the whole amount due under this section, the Minister may accept such amount as he considers proper.

Special
circumstances

3. This Act shall be deemed to have come into force on the 1st day of July, 1980.

Commence-
ment

4. The short title of this Act is the *Ontario Pensioners Property Tax Assistance Amendment Act, 1984*.

Short title

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Bill 37

*(Chapter 16
Statutes of Ontario, 1984)*

An Act to amend the Ontario Pensioners Property Tax Assistance Act

The Hon. B. Gregory
Minister of Revenue

<i>1st Reading</i>	April 17th, 1984
<i>2nd Reading</i>	May 11th, 1984
<i>3rd Reading</i>	May 25th, 1984
<i>Royal Assent</i>	May 29th, 1984

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Bill 37

1984

**An Act to amend the
Ontario Pensioners Property Tax Assistance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 14, section 3 and 1981, chapter 45, section 1, is further amended by adding thereto the following subsection:

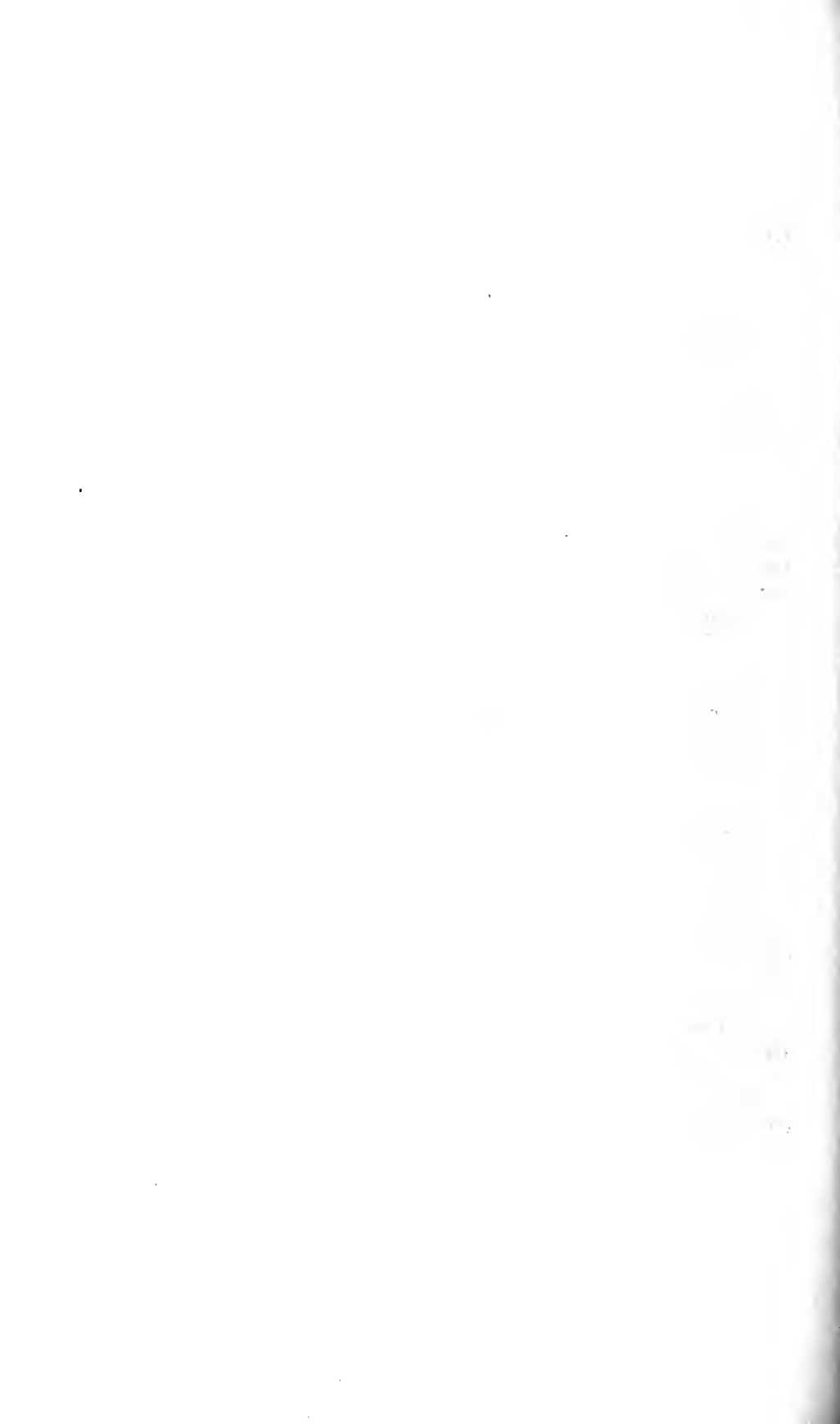
(3) Where an individual who is eligible to receive a grant under subsection (1) has not received the grant by the end of one month after the year to which the grant relates, no grant is payable under subsection (1) unless the Minister has received a written request therefor not later than twelve months after the end of the year to which the grant relates. Time limit
for grant

2. Section 14 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection (1), if owing to special circumstances it is deemed unreasonable to demand repayment of the whole amount due under this section, the Minister may accept such amount as he considers proper. Special
circumstances

3. This Act shall be deemed to have come into force on the 1st day of July, 1980. Commence-
ment

4. The short title of this Act is the *Ontario Pensioners Property Tax Assistance Amendment Act, 1984*. Short title



Bill 38

An Act to amend the Health Insurance Act

Mr. Cooke

1st Reading April 17th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would prevent physicians and practitioners from billing their patients for amounts exceeding the amounts payable by O.H.I.P.

Bill 38**1984****An Act to amend the Health Insurance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Insurance Act*, being chapter 197 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a. No physician and no practitioner engaged in the practice of a discipline designated by the regulations shall submit an account to a patient in respect of insured services for an amount that exceeds the amount payable by the Plan in respect of the insured services. Extra billing prohibited

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Health Insurance Amendment Act, 1984*. Short title

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Bill 39

An Act to amend the Liquor Control Act

Mr. Samis

1st Reading April 17th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to enable independent grocery store owners to sell beer and Ontario wine.

Bill 39**1984****An Act to amend the Liquor Control Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ca) "independent grocery store owner" means a person who owns a store at which the principal business is the sale of foodstuffs and who does not own or, under the terms of an agreement, participate in a chain or franchise undertaking consisting of more than three other grocery stores.

2. Section 3 of the said Act is amended by adding thereto the following clause:

(ea) to authorize independent grocery store owners to sell beer and Ontario wine from their grocery stores and to regulate their keeping for sale, sale and delivery of beer and Ontario wine.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Liquor Control Amendment Act, 1984*. Short title

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Bill 40

**An Act to provide for Public Access to
Information held by Government Bodies and
to protect the Privacy of Individuals concerning
whom Information is held by Government Bodies**

Mr. Philip

1st Reading April 18th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Act establishes a public right of access to recorded information held by government bodies, subject only to specific exceptions. It also controls the disclosure of personal information by government bodies and establishes the right of individuals to see, and obtain corrections to, personal information relating to them that is held by government bodies. Refusals to give access or make corrections may be investigated and reviewed by the Ombudsman, who is also given the duty of investigating and reviewing the handling of recorded personal information by individuals and organizations in the private sector.

Bill 40

1984

**An Act to provide for Public Access to
Information held by Government Bodies and
to protect the Privacy of Individuals concerning
whom Information is held by Government Bodies**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "government body" means,
 - (i) a ministry of the Crown,
 - (ii) a Crown agency, or
 - (iii) a board, commission, corporation or other organization with a majority of members appointed by a minister of the Crown or by the Lieutenant Governor in Council;
- (b) "Ombudsman" means the Ombudsman appointed under the *Ombudsman Act*;
- (c) "personal information" means information that relates to an identifiable individual;
- (d) "prescribed" means prescribed by the regulations made under this Act;
- (e) "record" means recorded information, regardless of physical form or characteristics.

R.S.O. 1980,
c. 325

PUBLIC ACCESS TO INFORMATION

2.—(1) A government body shall make a copy of any record in its possession or control available, at no cost except reasonable copying costs, to any person on request.

Access to
record

Duty of
government
body

(2) A government body shall, within thirty days of receiving a person's request under subsection (1),

- (a) make a copy of the record available to the person;
- (b) notify the person that the government body refuses to give him or her access to part of the record, stating the reasons for the refusal, and give the person access to the rest of the record;
- (c) notify the person that the government body refuses to give him or her access to the record, stating the reasons for the refusal; or
- (d) notify the person that the record does not exist, if that is the case.

Notice of
right of
review

(3) A notice of a refusal of access under clause (2) (b) or (c) shall contain a statement of the person's right to request a review by the Ombudsman under section 8.

Exempt
categories

(4) Subsection (1) does not apply to a record,

- (a) of a legal opinion prepared for the use of the government body;
- (b) whose release would be detrimental to the security of Ontario or Canada;
- (c) dealing with international relations, whose release would be detrimental to the future conduct of Ontario's or Canada's foreign relations;
- (d) whose release would be detrimental to the future conduct of federal-provincial relations or the relations of the provinces with one another;
- (e) whose release would result directly in financial gain or loss by a person or group of persons;
- (f) reflecting on an individual's personal competence or character;
- (g) whose release would be personally embarrassing to Her Majesty, the Royal Family or official representatives of Her Majesty;
- (h) relating to negotiations leading up to a contract, until the contract has been executed or the negotiations have been concluded;

- (i) relating to a policy decision that is still under consideration;
- (j) whose disclosure is prohibited by a statute;
- (k) of the Executive Council;
- (l) that relates to a proceeding before a court of justice or a judicial inquiry; or
- (m) of a prescribed class.

(5) The Lieutenant Governor in Council may order the disclosure of a record that is described in subsection (4) and whose disclosure, in the opinion of the Lieutenant Governor in Council, would be in the public interest.

Lieutenant Governor in Council may order disclosure of exempt record

(6) Subsection (1) does not apply to personal information, except for,

Personal information excepted

- (a) the name, title, duties, classification, if any, salary, telephone number at work and address at work of an officer, member or employee of a government body;
- (b) details of a contract for the provision of goods or services by an individual to a government body, and the individual's name; and
- (c) details of a discretionary economic benefit received by an individual from a government body, and the individual's name.

PROTECTION OF INDIVIDUAL PRIVACY

3.—(1) No government body shall disclose or permit the disclosure of personal information that is contained in a record in its possession and control without the consent of the person to whom the information relates.

Disclosure without consent prohibited

(2) Despite any other Act or any regulation made under another Act that authorizes a government body to disclose personal information to another government body or to a ministry or agency of the government of another jurisdiction than Ontario without the consent of the person to whom the information relates, such a disclosure shall not be made except in accordance with a written agreement between the two government bodies or between the government body and the ministry or agency, as the case may be, that has been approved by the Ombudsman.

Disclosure by one government body to another

Exceptions

(3) Subsections (1) and (2) do not apply to the disclosure of information,

- (a) to the government body's own officers, members, employees, agents and advisors for use in the performance of their duties;
- (b) to the Attorney General for use in a proceeding in Ontario;
- (c) to a police officer for use in a criminal prosecution in Ontario;
- (d) by a person who believes on reasonable grounds that another person's life or health will be endangered if the information is not disclosed immediately;
- (e) to be used for purposes of legitimate research, in accordance with guidelines established by the Ombudsman; or
- (f) that is personal information described in clause 2 (6) (a), (b) or (c).

Unnecessary collection of information prohibited

4. No government body shall collect or permit the collection on its behalf of personal information that is not actually required for the performance of the government body's functions.

Duty of government body

5.—(1) A government body that has possession or control of a record containing personal information, except a record described in subsection 2 (4) (exempt categories), shall,

- (a) ensure that the personal information in the record is accurate and is kept up to date;
- (b) give the Ombudsman written notice of,
 - (i) the name or title of the record,
 - (ii) the nature of the personal information, including the individual's name,
 - (iii) the source of the personal information, and the purpose for which it was collected, and
 - (iv) any changes in the matters referred to in sub-clauses (i), (ii) and (iii); and

- (c) note in the record every disclosure of the personal information, naming the person to whom it is disclosed and specifying the reason for the disclosure.

(2) Clause (1) (c) does not apply to the routine use of a record by the government body's own officers, members, employees, agents and advisors.

Routine internal use

(3) The Ombudsman may investigate a government body's record keeping and disclosure practices with respect to personal information and may recommend changes in those practices.

Powers of Ombudsman

6.—(1) A government body shall make a copy of personal information contained in a record in its possession or control available, at no cost except reasonable copying costs, to the individual to whom the personal information relates, at the individual's request.

Access to own personal information

(2) A government body shall, within thirty days of receiving an individual's request under subsection (1),

Duty of government body

- (a) make a copy of the personal information available to the individual;
- (b) notify the individual that the government body refuses to give him or her access to part of the personal information, stating the reasons for the refusal, and give the individual a copy of the rest of the personal information;
- (c) notify the individual that the government body refuses to give him or her access to the personal information, stating the reasons for the refusal; or
- (d) notify the person that the record does not exist, if that is the case.

(3) A notice of a refusal of access under clause (2) (b) or (c) shall contain a statement of the person's right to request a review by the Ombudsman under section 8.

Notice of right of review

(4) Subsection (1) does not apply to personal information,

Exceptions

- (a) that was collected or is being held for use in a criminal prosecution in Ontario;
- (b) whose disclosure to the individual requesting it would contravene subsection 3 (1) because it also

relates to another individual whose consent is not obtained; or

- (c) that is contained in a record described in subsection 2 (4).

Request for correction

7.—(1) An individual may request that a government body correct errors or omissions in personal information relating to him or her that is contained in a record in the possession or control of the government body.

Duty of government body

(2) Where an individual requests a correction under subsection (1), the government body shall, within thirty days of receiving the request,

- (a) make the correction as requested, and give notice of the correction to every person and other government body to whom the government body has disclosed the personal information;
- (b) notify the individual that the government body refuses to make the correction as requested, stating the reasons for the refusal, and note the request and response on the record; or
- (c) notify the individual that the record does not exist, if that is the case.

Notice of right of review

(3) A notice of a refusal of access under clause (2) (b) or (c) shall contain a statement of the person's right to request a review by the Ombudsman under section 8.

DUTIES OF OMBUDSMAN

Application for review by Ombudsman: government body

8.—(1) A person whose request for a copy of a record under subsection 2 (1), for access to personal information under subsection 7 (1) or for correction under subsection 9 (1) is refused may apply to the Ombudsman for a review of the matter.

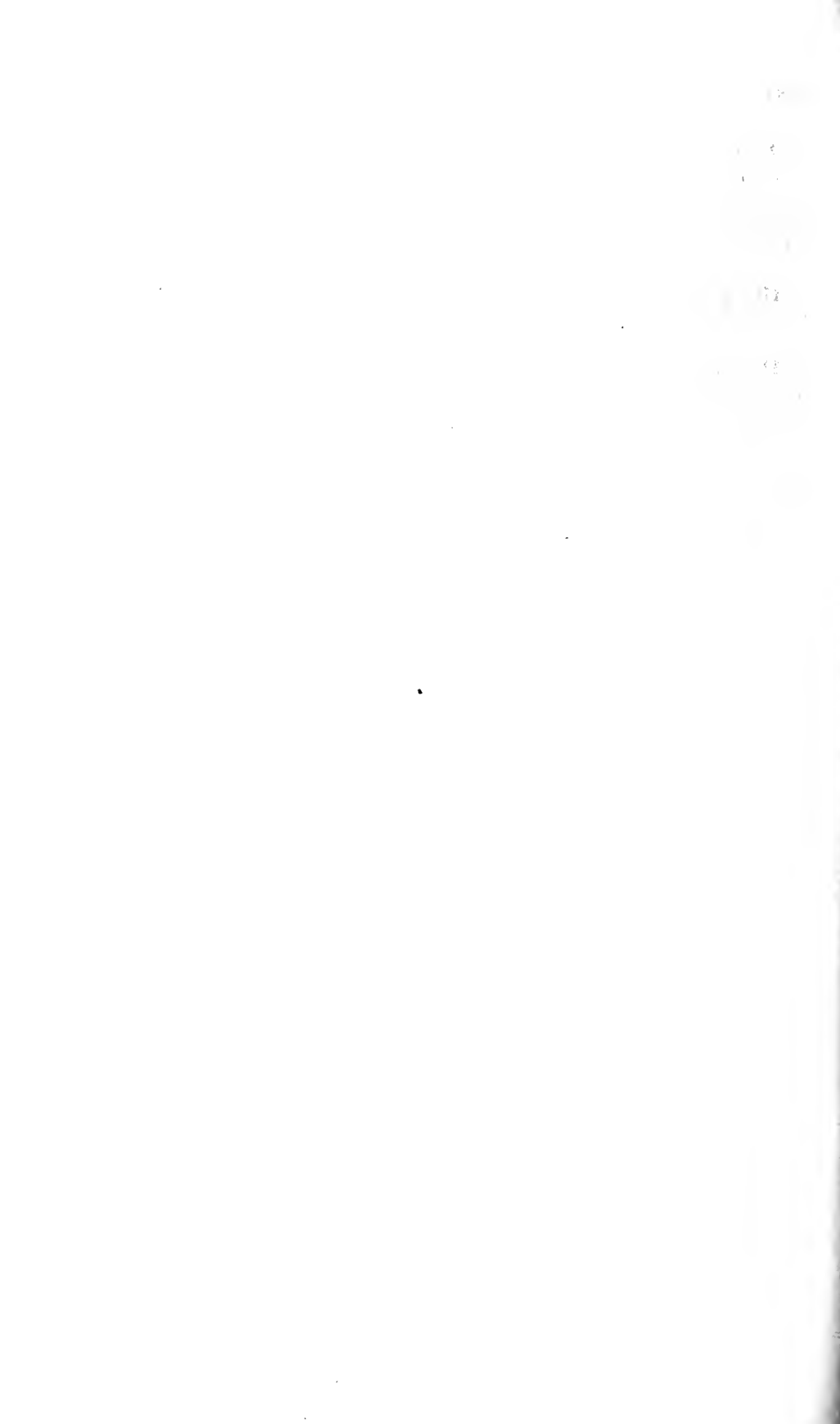
Idem: private sector

(2) A person who has concerns about the handling of personal information relating to him or her that is contained in a record in the possession or control of a person other than a government body may apply to the Ombudsman for a review of the matter.

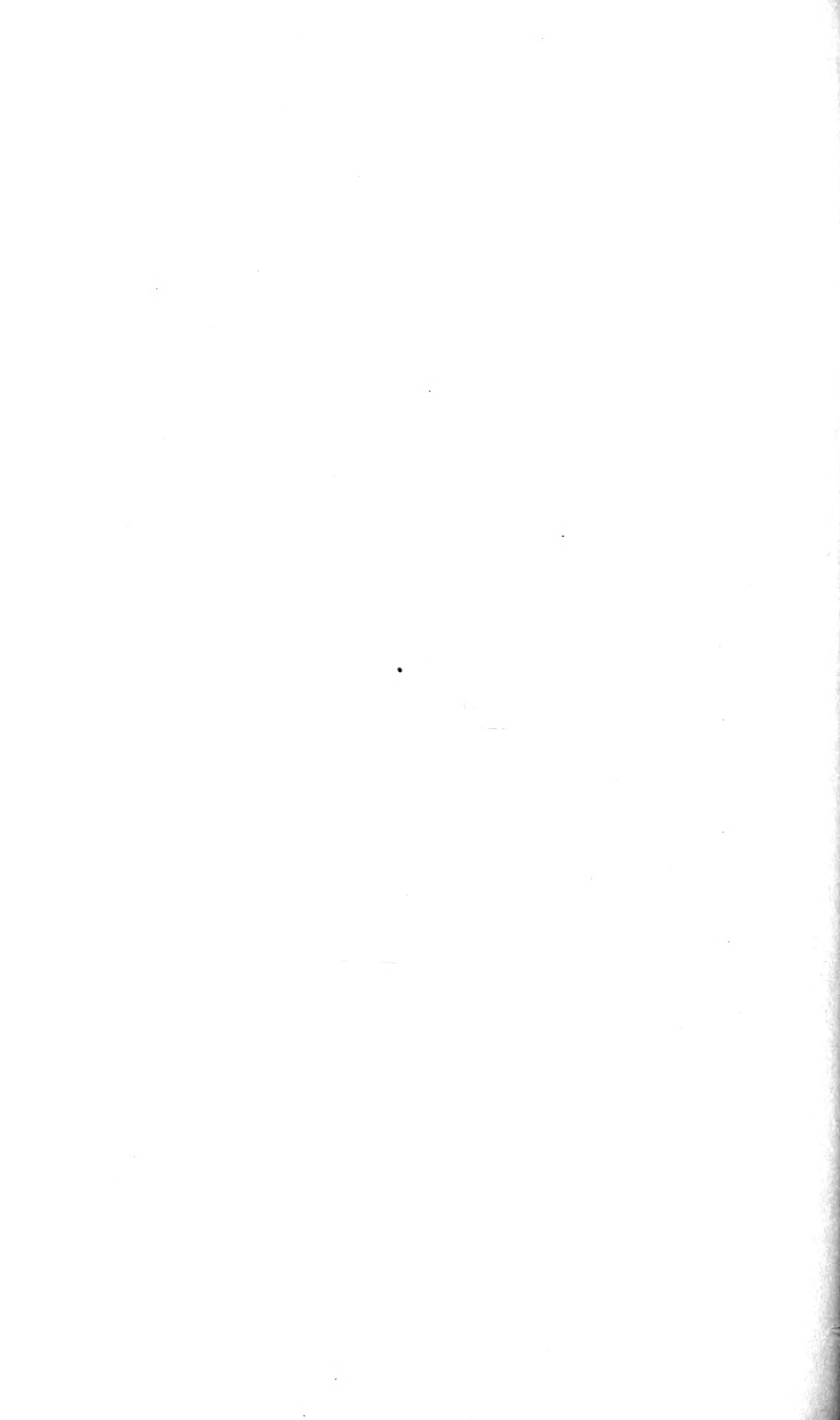
Duty of Ombudsman

(3) On an application under subsection (1) or (2), the Ombudsman shall investigate and review the matter and make a report to the applicant.

- 9.** The Ombudsman's annual report referred to in section 12 of the *Ombudsman Act* shall contain comments and recommendations on the record keeping and disclosure practices of persons and government bodies with respect to personal information. Annual report
R.S.O. 1980,
c. 325
- 10.** The *Ombudsman Act* applies with necessary modifications to the Ombudsman's activities under this Act. R.S.O. 1980,
c. 325
applies
- 11.** The Lieutenant Governor in Council may make regulations prescribing classes of records for the purpose of clause 2 (4) (m) (exempt records). Regulations
- 12.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
- 13.** The short title of this Act is the *Freedom of Information and Privacy Act, 1984*. Short title







Bill 41

An Act to amend the Public Commercial Vehicles Act

The Hon. J. W. Snow

Minister of Transportation and Communications

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

Bill 139 passed in 1983 set up a procedure whereby holders of operating licences could apply to the Board for a rewritten certificate. The Board was empowered to issue rewritten certificates or to consolidate several certificates after a hearing.

Provision was made for the Board to publish notice of its intentions and to provide opportunity for objectors to be heard.

The current Bill removes the requirement to publish notice and to hear objections. The applicants right to a hearing is retained.

Section 37 of the Act is the section authorizing the making of regulations. The added regulation making authority is complementary to section 10b of the Act which was enacted in 1983 but is not yet in force. Section 10b sets up the procedure to apply for rewritten certificates.

Bill 41

1984

**An Act to amend the
Public Commercial Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 10b (6) of the *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “may propose to” in the first and second lines and inserting in lieu thereof “shall”.

(2) Subsection 10b (8) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “or (16)” in the second line.

(3) Subsections 10b (9) to (16) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, are repealed.

(4) Subsection 10b (17) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “(13) or (16)” in the first and second lines and inserting in lieu thereof “(6)”.

2. Subsection 37 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 71, section 15, is further amended by adding thereto the following paragraph:

32. prescribing classes of certificates and the form of certificates issued under section 10b and the terms and conditions to which such certificates shall be subject.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

4. The short title of this Act is the *Public Commercial Vehicles Amendment Act, 1984*.

Short title

Bill 41

*(Chapter 20
Statutes of Ontario, 1984)*

An Act to amend the Public Commercial Vehicles Act

The Hon. J. W. Snow

Minister of Transportation and Communications

<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	June 1st, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984



Bill 41

1984

**An Act to amend the
Public Commercial Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 10b (6) of the *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “may propose to” in the first and second lines and inserting in lieu thereof “shall”.

(2) Subsection 10b (8) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “or (16)” in the second line.

(3) Subsections 10b (9) to (16) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, are repealed.

(4) Subsection 10b (17) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “(13) or (16)” in the first and second lines and inserting in lieu thereof “(6)”.

2. Subsection 37 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 71, section 15, is further amended by adding thereto the following paragraph:

32. prescribing classes of certificates and the form of certificates issued under section 10b and the terms and conditions to which such certificates shall be subject.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

4. The short title of this Act is the *Public Commercial Vehicles Amendment Act, 1984*.

Short title

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Bill 42

An Act to amend the Ministry of Colleges and Universities Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading March 20th, 1984

2nd Reading March 20th, 1984

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill requires that no university incur a cumulative deficit in its operating fund in any fiscal year in excess of 2 per cent of its revenue for the year.

The Bill also requires that universities make financial reports to the Minister in such form, containing such information and by such dates as the Minister may require.

The Bill also provides for the appointment of one or more persons to investigate and report on the financial situation of a university.

The Lieutenant Governor in Council is authorized to appoint a university supervisor for a university where, having regard to the report of the investigation, the Lieutenant Governor in Council is of the opinion that the financial situation of the university is such that action should be taken to improve it.

The university supervisor is required to provide advice and guidance to the governing body and the chief executive officer of the university.

The university supervisor may request the governing body or the chief executive officer of the university to do any act that they have authority to do, and may do the act on their behalf if they fail to comply with his request.

Provision is made for reports by a university supervisor to the Minister.

The appointment of a university supervisor continues in force until terminated by order of the Lieutenant Governor in Council.

Investigators and university supervisors are protected against personal liability.

Bill 42

1984

**An Act to amend the
Ministry of Colleges and Universities Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART II

11.—(1) In this Part,

Interpre-
tation

- (a) “governing body” means a Board of Governors, Board of Trustees, Board of Directors, Governing Council or Council of a university that has the responsibility for the government, conduct, management and control of the university;
- (b) “operating fund” means a fund that is a self-balancing accounting entity that accounts for the cost of instruction, research other than sponsored or contract research, academic support services, administration, plant maintenance and other general expenses of a university and that is financed from operating revenue;
- (c) “operating revenue” means the revenue from tuition and other related fees, operating grants and other general income;
- (d) “university” means a university or post-secondary educational institution listed in the Schedule.

(2) No university shall incur in any fiscal year a cumulative deficit in its operating fund that is in excess of 2 per cent of its operating revenue for the year. No deficit

Financial reports

(3) A university shall make such financial reports to the Minister, in such form, containing such information and by such dates as the Minister may require.

Investigators

12.—(1) Where the Lieutenant Governor in Council, having regard to a financial report referred to in subsection 11 (3) and any other financial information that may be available, is of the opinion that a university is in contravention of subsection 11 (2), he may appoint an investigator for the university to investigate and report on the financial situation of the university.

Powers of investigator

(2) An investigator may,

- (a) examine and audit all the books, accounts and records of the university; and
- (b) investigate and require financial information from any person in possession of information in respect of the university,

at any time, but only for the purpose of this Part.

Obstruction

(3) No person shall obstruct an investigator or withhold or destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

Report

(4) The Minister shall cause a copy of the report of an investigation to be delivered to the chairman of the governing body of the university.

University supervisor

13.—(1) The Lieutenant Governor in Council may appoint a university supervisor for a university where, having regard to the content of the report of an investigation under section 12, the Lieutenant Governor in Council is of the opinion that the university is in contravention of subsection 11 (2) and that the financial situation at the university warrants such action.

Term of office

(2) The appointment of a university supervisor is valid until terminated by order of the Lieutenant Governor in Council.

Duty of university supervisor

(3) A university supervisor appointed for a university shall give advice and guidance to the governing body and the chief executive officer of the university for the purpose of improving the financial situation of the university.

Duty of governing body and chief executive officer

(4) It is the duty of the governing body and the chief executive officer of a university to receive and consider the advice

and guidance of a university supervisor appointed for the university.

(5) Where a university supervisor appointed for a university requests in writing that the governing body or the chief executive officer do any act that they have authority to do and, in the opinion of the university supervisor, they fail to do so, the university supervisor may do the act on behalf of the governing body or the chief executive officer and the act is as effective as if done by the governing body or the chief executive officer, as the case may be.

Action on behalf of governing body, etc.

(6) During the term of office of a university supervisor appointed for a university, no act of the governing body is valid unless approved in writing by the university supervisor.

Action by governing body

(7) A university supervisor appointed for a university has the same rights as the governing body and the chief executive officer of the university in respect of the documents, records and information of the university.

Right of access

(8) A university supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require.

Reports

14.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a university supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Protection from personal liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a university supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection (1) had not been enacted.

Crown not relieved of liability
R.S.O. 1980, c. 393

15. In the event of conflict between any provision of this Part and the provision of any other Act, the provision of this Part prevails.

Conflict

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

Short title

3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1984.*

SCHEDULE

Algoma College Association
Brock University
Carleton University
The Dominican or Friar Preachers of Ottawa College
Lakehead University
Laurentian University of Sudbury
Le Collège de Hearst
McMaster University
Nipissing College
Ontario College of Art
Ontario Institute for Studies in Education
Queen's University
Ryerson Polytechnical Institute
Trent University
University of Guelph
University of Ottawa
University of Toronto
University of Waterloo
University of Western Ontario
University of Windsor
Wilfrid Laurier University
York University





Bill 43

An Act to amend the Off-Road Vehicles Act, 1983

The Hon. J. W. Snow

Minister of Transportation and Communications

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The definition of highway is clarified.

SECTION 2. Section 4 of the Act now prohibits children under the age of twelve from driving except on land occupied by the vehicle owner. The provision as recast provides a further exception where the child is under close supervision of an adult.

SECTION 3. The new provision expands the regulation making authority.

Bill 43

1984

**An Act to amend the
Off-Road Vehicles Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Off-Road Vehicles Act, 1983*, being chapter 53, is repealed and the following substituted therefor:

- (b) "highway", includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) No owner of an off-road vehicle shall permit a child under the age of twelve to drive the vehicle. Age limit for driving

(2) Subsection (1) does not apply where the child is driving the vehicle, Exception

(a) on land occupied by the vehicle owner; or

(b) under the close supervision of an adult.

3. Subsection 5 (7) of the said Act is amended by adding thereto the following clause:

- (g) prescribing conditions precedent to be met before an issued permit is valid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Off-Road Vehicles Amendment Act, 1984.*

Bill 43

*(Chapter 44
Statutes of Ontario, 1984)*

An Act to amend the Off-Road Vehicles Act, 1983

The Hon. J. W. Snow
Minister of Transportation and Communications

<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	October 9th, 1984
<i>3rd Reading</i>	November 23rd, 1984
<i>Royal Assent</i>	November 27th, 1984

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Bill 43

1984

**An Act to amend the
Off-Road Vehicles Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Off-Road Vehicles Act, 1983*, being chapter 53, is repealed and the following substituted therefor:

- (b) "highway", includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) No owner of an off-road vehicle shall permit a child under the age of twelve to drive the vehicle. Age limit for driving

(2) Subsection (1) does not apply where the child is driving the vehicle, Exception

- (a) on land occupied by the vehicle owner; or
- (b) under the close supervision of an adult.

3. Subsection 5 (7) of the said Act is amended by adding thereto the following clause:

- (g) prescribing conditions precedent to be met before an issued permit is valid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Off-Road Vehicles Amendment Act, 1984*.

Bill 44

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill contains amendments related to Education.

SECTION 1.—Subsection 1. The method of computing the reduction of an apportionment in relation to a surplus is changed. The method of computation is set out in the new subsection 127 (4a) of the Act.

Subsection 2. Boards of education are required to transfer the remainders of surpluses to the School Board and the School Board is required to reduce its estimates by the amounts transferred to it.

Subsection 3. The definition of “total rateable property” is amended.

SECTION 2. The amendments to section 130j of the Act are complementary to the amendments to section 133 of the Act and to new section 133a, set out in the Bill. The amendments remove the term “total rateable property” from the section and refer instead to moneys transferred under sections 133 and 133a of the Act.

SECTION 3. The amendments to section 133 of the Act relate to the amounts that boards of education may require the councils of area municipalities to levy and collect, and set out the method of sharing such amounts among the boards of education in the Metropolitan Area.

SECTION 4. New section 133a of the Act provides for additional transitional levies that may be required by The Board of Education for the City of Toronto in the years 1984 to 1987. New section 133b of the Act directs the School Board in the application of amounts transferred to it as part of the method of sharing under section 133, and the section provides for special situations of the School Board related to the transfer of amounts under section 133.

Bill 44**1984**

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 127 (4) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall reduce the apportionment for public elementary or for secondary school purposes, as the case requires, to the area municipality in which the board of education has jurisdiction in an amount computed in accordance with subsection (4a).

Reduction of
apportionment

(4a) The following rules apply in respect of the reduction of an apportionment under subsection (4) in relation to a specific year:

Rules for
reduction

1. Compute for the immediately preceding year the proportion that the total rateable property for public elementary school purposes or for secondary school purposes, as the case requires, in the area municipality was of the total rateable property in relation to the Metropolitan Area.
2. Compute in respect of the immediately preceding year the proportion that the estimates of the board of education approved by the School Board for public elementary school purposes or for secondary school purposes, as the case requires, was of the

aggregate of the estimates of all of the boards of education approved by the School Board.

3. Divide the proportion computed under Rule 1 by the proportion computed under Rule 2.
4. Where the quotient computed under Rule 3 is equal to or greater than one, the apportionment shall be reduced by an amount equal to the amount of the surplus mentioned in subsection (4).
5. Where the quotient computed under Rule 3 is less than one, the apportionment shall be reduced by an amount computed by multiplying the surplus mentioned in subsection (4) by the quotient computed under Rule 3.

(2) Section 127 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 6, is further amended by adding thereto the following subsections:

Transfer of
balance of
surplus

(6a) Every board of education shall transfer to the School Board an amount equal to the difference between the amount of the surplus of the board of education mentioned in clause 133 (1) (b) and an amount equal to the amount computed in respect of the board of education under subsection (4a).

Application
of amount
transferred

(6b) The School Board shall apply amounts transferred to it under subsection (6a) to reduce the estimates submitted by it to the Metropolitan Council.

(3) Sub-subclause 127 (7) (c) (i) (B) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(B) the quotient obtained by dividing the commercial assessment by 0.85, and

2.—(1) Clause 130j (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed.

(2) Clause 130j (2) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed and the following substituted therefor:

- (b) does not exceed the aggregate of the amounts that are required to be transferred to the board of education under sections 133 and 133a for public ele-

mentary school purposes or for secondary school purposes, as the case requires, by the council of the area municipality in which the board of education has jurisdiction and by the School Board.

(3) Subsection 130j (4) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for public elementary school purposes, the board of education,

Termination of employment, additional elementary school teachers

.

(4) Subsection 130j (5) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for secondary school purposes, the board of education,

Termination of employment, secondary school teachers

.

3.—(1) Subsection 133 (4) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 9, is repealed and the following substituted therefor:

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which the board of education has jurisdiction the estimates of the board of education that were submitted to the School Board as adjusted in accordance with subsections (4a) and (4b) and a requisition of the amount of the estimates for public elementary school purposes and for secondary school purposes required to be raised by the council.

Estimates to council of area municipality

(4a) The estimates mentioned in subsection (4) shall be adjusted as follows:

Adjustment of estimates

1. The board of education shall adjust the estimates to include and to make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board.

2. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for public elementary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for public elementary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for public elementary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the Metropolitan Area for public elementary school purposes, and
 - iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for public elementary school purposes.
3. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for secondary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for secondary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for secondary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one mill in the dollar upon the total rateable property (as defined in section

127) in the Metropolitan Area for secondary school purposes, and

- iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for secondary school purposes.

(4b) The estimates, as adjusted under subsection (4a) shall be further adjusted as follows: Further adjustment

1. The board of education shall divide the amount that, having regard for the computations required by subsection (4a), the board of education determines is necessary for its purposes by the amount of the estimates of the board of education that have been approved by the School Board as adjusted in accordance with subsection (4a), but excluding the adjustment in subparagraph iii of paragraph 2 or in subparagraph iii of paragraph 3, as the case requires, of subsection (4a).
2. The board of education shall multiply the quotient obtained under paragraph 1 by,
 - i. one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public elementary school purposes, or
 - ii. one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes.

(4c) A board of education that submits estimates and a requisition to the council of an area municipality under subsection (4) shall transmit to the School Board a copy of the estimates and requisition. Transmittal of copy to School Board

(4d) A board of education must submit its estimates and requisition under subsection (4) and transmit a copy under subsection (4b) within twenty days after the School Board notifies the board of education under subsection (2) of the extent to which its estimates have been approved by the School Board. Time limit

(2) Subsection 133 (5) of the said Act is repealed and the following substituted therefor:

Local levy

(5) The council of an area municipality shall levy and collect each year the moneys requisitioned for the year for public elementary school purposes or for secondary school purposes, or both, in accordance with subsection (4) by the board of education that has jurisdiction in the area municipality.

Where levy equal to need

(5a) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are equal to the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education, the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5).

Where levy less than need

(5b) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are less than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5); and
- (b) the School Board shall transfer to the board of education an amount equal to the difference between the amount the board of education has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education and the amount of the moneys the council of the area municipality is required to transfer under clause (a) to the board of education.

Where levy greater than need

(5c) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are greater than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer to the board of education from time to time as required by the board of edu-

ation, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5), amounts that in the aggregate do not exceed the amount the board of education has determined is necessary for its purposes; and

- (b) the council shall transfer to the School Board, at the same times as amounts are transferred under clause (a), amounts that in the aggregate are equal to the difference between the amount of moneys that the council is required to levy and collect and the aggregate of the amounts that the council is required under clause (a) to transfer to the board of education.

4. The said Act is amended by adding thereto the following sections:

133a.—(1) In this section, “Board of Education” means Interpretation
The Board of Education for the City of Toronto.

(2) Where in the years 1984, 1985, 1986 and 1987 the City of Toronto, transitional
Board of Education determines that more moneys are necessary for its public elementary school purposes than will be obtained under other sections in this Part, the Board of Education may submit to the council of the City of Toronto with the estimates submitted under subsection 133 (4) a requisition for such additional moneys.

(3) The maximum amount that may be requisitioned under Maximum amount
subsection (2) is the amount of money that would be raised by a levy of,

- (a) 0.4 mills in the dollar in the year 1984;
(b) 0.3 mills in the dollar in the year 1985;
(c) 0.2 mills in the dollar in the year 1986; and
(d) 0.1 mills in the dollar in the year 1987,

upon the total rateable property (as defined in section 127) in the City of Toronto for public elementary school purposes.

(4) The council of the City of Toronto shall levy and collect Levy
in the year the moneys requisitioned in accordance with subsections (2) and (3) for the year by the Board of Education and shall transfer the moneys to the Board of Education from time to time as required by the Board of Education, but not

later than the 15th day of December in the year for which the moneys were requisitioned.

Application
of moneys
transferred to
School Board

133b.—(1) The School Board shall apply moneys transferred to it in each year under section 133 by the councils of the area municipalities,

- (a) firstly, for the purpose of the transfers to boards of education that the School Board is required to make in the year under section 133; and
- (b) secondly, to reduce the estimates submitted by the School Board to the Metropolitan Council in the next year.

Reduction
of estimates
in current
year

(2) Where, in any year, the School Board complies with clause (1) (a) before submitting its estimates to the Metropolitan Council, the School Board may apply any amount remaining out of the moneys transferred to it under section 133 to reduce its estimates in the year instead of the next year.

Increase of
estimates in
current year

(3) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has not submitted its estimates for the year to the Metropolitan Council, the School Board may include in the estimates the amount that it considers necessary to enable it to comply with clause (1) (a).

Short term
borrowing

(4) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has submitted its estimates for the year to the Metropolitan Council, the School Board may borrow the moneys required to enable it to comply with clause (1) (a) by promissory note until sufficient moneys are transferred to the School Board under section 133 or by the Metropolitan Council.

Elementary
school
purposes

(5) Moneys levied and collected upon requisitions for public elementary school purposes shall be applied under subsection (1) in respect of public elementary school purposes.

Secondary
school
purposes

(6) Moneys levied and collected upon requisitions for secondary school purposes shall be applied under subsection (1) in respect of secondary school purposes.

5. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

6. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984.* Short title



Bill 44

*(Chapter 10
Statutes of Ontario, 1984)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Stephenson
Minister of Education and Minister of Colleges and Universities

<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	May 1st, 1984
<i>3rd Reading</i>	May 1st, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 44

1984

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 127 (4) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall reduce the apportionment for public elementary or for secondary school purposes, as the case requires, to the area municipality in which the board of education has jurisdiction in an amount computed in accordance with subsection (4a).

Reduction of
apportionment

(4a) The following rules apply in respect of the reduction of an apportionment under subsection (4) in relation to a specific year:

Rules for
reduction

1. Compute for the immediately preceding year the proportion that the total rateable property for public elementary school purposes or for secondary school purposes, as the case requires, in the area municipality was of the total rateable property in relation to the Metropolitan Area.
2. Compute in respect of the immediately preceding year the proportion that the estimates of the board of education approved by the School Board for public elementary school purposes or for secondary school purposes, as the case requires, was of the

aggregate of the estimates of all of the boards of education approved by the School Board.

3. Divide the proportion computed under Rule 1 by the proportion computed under Rule 2.
4. Where the quotient computed under Rule 3 is equal to or greater than one, the apportionment shall be reduced by an amount equal to the amount of the surplus mentioned in subsection (4).
5. Where the quotient computed under Rule 3 is less than one, the apportionment shall be reduced by an amount computed by multiplying the surplus mentioned in subsection (4) by the quotient computed under Rule 3.

(2) Section 127 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 6, is further amended by adding thereto the following subsections:

Transfer of
balance of
surplus

(6a) Every board of education shall transfer to the School Board an amount equal to the difference between the amount of the surplus of the board of education mentioned in clause 133 (1) (b) and an amount equal to the amount computed in respect of the board of education under subsection (4a).

Application
of amount
transferred

(6b) The School Board shall apply amounts transferred to it under subsection (6a) to reduce the estimates submitted by it to the Metropolitan Council.

(3) Sub-subclause 127 (7) (c) (i) (B) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(B) the quotient obtained by dividing the commercial assessment by 0.85, and

2.—(1) Clause 130j (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed.

(2) Clause 130j (2) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed and the following substituted therefor:

- (b) does not exceed the aggregate of the amounts that are required to be transferred to the board of education under sections 133 and 133a for public ele-

mentary school purposes or for secondary school purposes, as the case requires, by the council of the area municipality in which the board of education has jurisdiction and by the School Board.

(3) Subsection 130j (4) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for public elementary school purposes, the board of education,

Termination of employment, additional elementary school teachers

(4) Subsection 130j (5) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for secondary school purposes, the board of education,

Termination of employment, secondary school teachers

3.—(1) Subsection 133 (4) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 9, is repealed and the following substituted therefor:

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which the board of education has jurisdiction the estimates of the board of education that were submitted to the School Board as adjusted in accordance with subsections (4a) and (4b) and a requisition of the amount of the estimates for public elementary school purposes and for secondary school purposes required to be raised by the council.

Estimates to council of area municipality

(4a) The estimates mentioned in subsection (4) shall be adjusted as follows:

Adjustment of estimates

1. The board of education shall adjust the estimates to include and to make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board.

2. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for public elementary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for public elementary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for public elementary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the Metropolitan Area for public elementary school purposes, and
 - iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for public elementary school purposes.
3. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for secondary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for secondary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for secondary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one mill in the dollar upon the total rateable property (as defined in section

127) in the Metropolitan Area for secondary school purposes, and

- iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for secondary school purposes.

(4b) The estimates, as adjusted under subsection (4a) shall be further adjusted as follows:

Further adjustment

1. The board of education shall divide the amount that, having regard for the computations required by subsection (4a), the board of education determines is necessary for its purposes by the amount of the estimates of the board of education that have been approved by the School Board as adjusted in accordance with subsection (4a), but excluding the adjustment in subparagraph iii of paragraph 2 or in subparagraph iii of paragraph 3, as the case requires, of subsection (4a).
2. The board of education shall multiply the quotient obtained under paragraph 1 by,
 - i. one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public elementary school purposes, or
 - ii. one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes.

(4c) A board of education that submits estimates and a requisition to the council of an area municipality under subsection (4) shall transmit to the School Board a copy of the estimates and requisition.

Transmittal of copy to School Board

(4d) A board of education must submit its estimates and requisition under subsection (4) and transmit a copy under subsection (4b) within twenty days after the School Board notifies the board of education under subsection (2) of the extent to which its estimates have been approved by the School Board.

Time limit

(2) Subsection 133 (5) of the said Act is repealed and the following substituted therefor:

Local levy

(5) The council of an area municipality shall levy and collect each year the moneys requisitioned for the year for public elementary school purposes or for secondary school purposes, or both, in accordance with subsection (4) by the board of education that has jurisdiction in the area municipality.

Where levy
equal to
need

(5a) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are equal to the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education, the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5).

Where levy
less than
need

(5b) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are less than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5); and
- (b) the School Board shall transfer to the board of education an amount equal to the difference between the amount the board of education has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education and the amount of the moneys the council of the area municipality is required to transfer under clause (a) to the board of education.

Where levy
greater
than need

(5c) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are greater than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer to the board of education from time to time as required by the board of edu-

cation, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5), amounts that in the aggregate do not exceed the amount the board of education has determined is necessary for its purposes; and

- (b) the council shall transfer to the School Board, at the same times as amounts are transferred under clause (a), amounts that in the aggregate are equal to the difference between the amount of moneys that the council is required to levy and collect and the aggregate of the amounts that the council is required under clause (a) to transfer to the board of education.

4. The said Act is amended by adding thereto the following sections:

133a.—(1) In this section, “Board of Education” means Interpretation
The Board of Education for the City of Toronto.

(2) Where in the years 1984, 1985, 1986 and 1987 the Board of Education determines that more moneys are necessary for its public elementary school purposes than will be obtained under other sections in this Part, the Board of Education may submit to the council of the City of Toronto with the estimates submitted under subsection 133 (4) a requisition for such additional moneys. City of Toronto, transitional

(3) The maximum amount that may be requisitioned under subsection (2) is the amount of money that would be raised by a levy of, Maximum amount

- (a) 0.4 mills in the dollar in the year 1984;
- (b) 0.3 mills in the dollar in the year 1985;
- (c) 0.2 mills in the dollar in the year 1986; and
- (d) 0.1 mills in the dollar in the year 1987,

upon the total rateable property (as defined in section 127) in the City of Toronto for public elementary school purposes.

(4) The council of the City of Toronto shall levy and collect Levy
in the year the moneys requisitioned in accordance with subsections (2) and (3) for the year by the Board of Education and shall transfer the moneys to the Board of Education from time to time as required by the Board of Education, but not

later than the 15th day of December in the year for which the moneys were requisitioned.

Application
of moneys
transferred to
School Board

133b.—(1) The School Board shall apply moneys transferred to it in each year under section 133 by the councils of the area municipalities,

- (a) firstly, for the purpose of the transfers to boards of education that the School Board is required to make in the year under section 133; and
- (b) secondly, to reduce the estimates submitted by the School Board to the Metropolitan Council in the next year.

Reduction
of estimates
in current
year

(2) Where, in any year, the School Board complies with clause (1) (a) before submitting its estimates to the Metropolitan Council, the School Board may apply any amount remaining out of the moneys transferred to it under section 133 to reduce its estimates in the year instead of the next year.

Increase of
estimates in
current year

(3) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has not submitted its estimates for the year to the Metropolitan Council, the School Board may include in the estimates the amount that it considers necessary to enable it to comply with clause (1) (a).

Short term
borrowing

(4) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has submitted its estimates for the year to the Metropolitan Council, the School Board may borrow the moneys required to enable it to comply with clause (1) (a) by promissory note until sufficient moneys are transferred to the School Board under section 133 or by the Metropolitan Council.

Elementary
school
purposes

(5) Moneys levied and collected upon requisitions for public elementary school purposes shall be applied under subsection (1) in respect of public elementary school purposes.

Secondary
school
purposes

(6) Moneys levied and collected upon requisitions for secondary school purposes shall be applied under subsection (1) in respect of secondary school purposes.

5. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

6. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984.* Short title



Bill 45

An Act to amend the Highway Traffic Act

The Hon. J. W. Snow

Minister of Transportation and Communications

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The new clauses are being added to the section authorizing the making of regulations. In addition, the authority to charge interest and impose penalties in respect of dishonoured cheques is given.

SECTION 2. The statement of purpose is self-explanatory.

SECTION 3. The new subsection 18 (2b) provides that a suspended driver's licence is not to be considered as a valid licence at the end of the suspension period until the prescribed administration fee has been paid.

The remaining changes prohibit the driving of a vehicle with air brakes unless the licence of the driver is endorsed to permit it.

SECTION 4. Subsection 26 (1) of the Act is recast to include drivers of street cars and motorized snow vehicles. The amendment to subsection 26 (2) is a technical correction.

SECTION 5. Section 30a of the Act deals with spot checks of motor vehicles and breathalyzer tests for drivers. The effect of the new provision is to include motorized snow vehicles and their operators.

SECTION 6. The change is a housekeeping one to clarify a technical matter.

SECTION 7. The permitted length of vehicles, in combination, is being increased from twenty-one metres to twenty-three. Subsection 92 (6b) is new.

SECTION 8. The new provision adds another vehicle that is exempt from speed limits.

SECTION 9. Part IX of the Act sets out rules of the road. The new definitions recognize changing technology in traffic signals.

SECTIONS 10, 11 and 13. Sections 115, 116 and 119 of the Act are recast to clarify the meaning and do not effect a substantive change.

SECTION 12. The amendment changes an internal reference and is necessary because of the recasting of section 116 of the Act (section 11 of the Bill).

SECTION 14. The new provision is self-explanatory.

SECTION 15. The new provision recognizes that some vehicles are not able to strictly comply with the Act because of their length.

SECTION 16. The section dealing with traffic control systems is rewritten chiefly to:

1. clarify the existing law,
2. standardize technically related terminology,
3. permit the dealing with technical matters by way of regulations.

The section, as recast, does not substantively change the law but tries to take in account situations that did not exist when the section was originally drafted.

SECTIONS 17 and 18. The changes are wording changes to maintain consistency with other amendments made by the Bill.

SECTION 19. The section dealing with school buses is rewritten. The definitions of "children" and "school" are new. The requirement to stop is extended to apply to street car operators as well as other drivers. Chrome yellow buses may be used for charter like

trips for children. In addition, some provisions have been rephrased for simplicity or clarification.

SECTION 20. The definition of a school crossing guard is amended by the addition of clause (b).

SECTION 21. Currently, accidents resulting in damages in excess of \$400 must be reported. This amount is being changed to an amount prescribed by regulation.



Bill 45

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 5 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (d) providing for the payment of administrative fees for the reinstatement of suspended licences and for the exemption from payment of such fees on the basis of grounds for suspension;
- (e) providing for the payment of administrative fees for handling dishonoured cheques tendered as payment for the issue, renewal, replacement, transfer, validation or reinstatement of permits, licences and number plates;
- (f) prescribing a rate of interest for purposes of subsection (2), when interest starts to run and the method of calculating the interest;
- (g) prescribing penalties for the purposes of subsection (2) and the method of determining the amount of any penalty.

(2) The said section 5 is further amended by adding thereto the following subsection:

(2) Where a cheque tendered as payment for any fee is dishonoured, interest at a prescribed rate may be charged on the amount of the cheque and a penalty may be imposed.

Interest and penalties when cheque dishonoured

2. Part III of the said Act is amended by adding thereto the following section:

17a. The purpose of this Part is to protect the public by ensuring that the privilege of driving on a highway is granted

Driving a privilege

to, and retained by, only those persons who demonstrate that they are likely to drive safely.

3.—(1) Section 18 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 7, is further amended by adding thereto the following subsections:

Air brake endorsement

(1b) No person shall drive, on a highway, a vehicle equipped with air brakes unless the licence of that person is endorsed to permit the driving of a vehicle of that class equipped with air brakes.

Idem

(1c) The Minister shall endorse the driver's licence of every person who applies therefor and meets the requirements prescribed by the regulations with the endorsement referred to in subsection (1b).

(2) The said section 18 is further amended by adding thereto the following subsection:

Contingent validity

(2b) Where a driver's licence issued under subsection (2) has been suspended, it is not valid for purposes of subsection (1) until the prescribed administrative fee for its reinstatement has been paid.

(3) Subsection 18 (7) of the said Act is amended by adding thereto the following clause:

(h) prescribing the requirements to be met by an applicant for an endorsement to a driver's licence for any class of vehicle.

4.—(1) Subsection 26 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 11, is repealed and the following substituted therefor:

Suspension on conviction for certain offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or a street car or a motorized snow vehicle or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or a motorized snow vehicle or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act or a motorized snow vehicle is thereupon and hereby suspended for a period of,

(a) upon the first conviction, three months;

- (b) upon the first subsequent conviction, six months; and
- (c) upon an additional subsequent conviction, three years,

provided that where an order has been made before the 26th day of April, 1976 under subsection 238 (1) of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

R.S.C. 1970,
c. C-34

(2) Subsection 26 (2) of the said Act is repealed and the following substituted therefor:

(2) Where a person who has previously been convicted of an offence mentioned in subsection (1) is convicted of the same or any other offence mentioned in subsection (1) within five years after the previous conviction, the last conviction shall be deemed to be a subsequent conviction for the purposes of clauses (1) (b) and (c).

Subsequent
offence
within five-
year period

5. Section 30a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is amended by adding thereto the following subsection:

(13) In this section,

Interpretation

- (a) "driver's licence" includes a motorized snow vehicle operator's licence; and
- (b) "motor vehicle" includes a motorized snow vehicle.

6. Clause 74 (3) (a) of the said Act is repealed and the following substituted therefor:

- (a) the vehicle has been inspected by a motor vehicle inspection mechanic in the motor vehicle inspection station and the vehicle complies with the inspection requirements and performance standards prescribed by the regulations; and

7. Subsection 92 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 4, is repealed and the following substituted therefor:

Length of
vehicle

(6) Subject to section 93, no vehicle, other than a fire apparatus, a semi-trailer or a bus, including load, shall exceed the length of 12.5 metres while on a highway.

Length of
combination

(6a) No combination of vehicles, including load, coupled together shall exceed the total length of twenty-three metres while on a highway.

Idem

(6b) No combination of vehicles shall be operated on a highway where the distance from the back of the driver's compartment of the tractor to the rearmost part of the combination of vehicles exceeds nineteen metres, unless the distance from the centre of the kingpin of the foremost trailer to the rearmost part of the combination of vehicles is 16.75 metres or less.

Interpretation

(6c) For the purposes of subsection (6b), a sleeping compartment shall be considered as part of the driver's compartment.

8. Subsection 109 (12) of the said Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

- (c) an ambulance as defined in clause 43 (a) while responding to an emergency call or being used to transport a patient or injured person in an emergency situation.

9. Part IX of the said Act is amended by adding thereto the following section:

Interpretation

113a. In this Part,

- (a) "indication" means a signal lens display that is activated by internal illumination;
- (b) "traffic control signal" means that part of a traffic control signal system that consists of one set of no less than three coloured lenses, red, amber and green, mounted on a frame and commonly referred to as a signal head;
- (c) "traffic control signal system" means all of the signal equipment making up the installation at any location.

10. Section 115 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 23, is repealed and the following substituted therefor:

115.—(1) This section applies where an intersection is not controlled by a stop or yield sign or a traffic control signal system. Application

(2) Every driver approaching an intersection shall yield the right of way to any vehicle in the intersection that has entered it from an intersecting highway. Right of way

(3) When two vehicles enter an intersection from intersecting highways at approximately the same time, the driver on the left shall yield the right of way to the vehicle on the right. Idem

(4) In this section, “driver” includes street car operator and “vehicle” includes street car. Interpretation

11. Section 116 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 24, is repealed and the following substituted therefor:

116.—(1) Every driver or street car operator approaching a stop sign at an intersection, Stop at through highway

- (a) shall stop his vehicle or street car at a marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and
- (b) shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

(2) Every driver or street car operator approaching, on another highway, an intersection referred to in subsection (1), shall yield the right of way to every driver or operator who has complied with the requirements of subsection (1). Acquiring right of way

12. Subsection 118 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 25, is further amended by striking out “116 (a)” in the fourth line and inserting in lieu thereof “116 (1) (a)”.

13. Section 119 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 14 and 1983, chapter 63, section 26, is repealed and the following substituted therefor:

119.—(1) Every driver or street car operator entering a highway from a private road or driveway shall yield the right Right of way on entering highway from private road

of way to all traffic approaching on the highway so closely that to enter would constitute an immediate hazard.

Exception
to subs. (1)

(2) Subsection (1) does not apply to a driver or operator entering a highway from a private road or driveway controlled by a traffic control signal of a traffic control signal system.

14. Section 120 of the said Act is amended by adding thereto the following subsection:

Municipal
by-laws

(5) No municipal by-law that purports to designate a pedestrian crossover on a highway on which the maximum speed limit is in excess of 60 kilometres per hour is valid.

15. Section 121 of the said Act is amended by adding thereto the following subsection:

Long
vehicles

(7) Where, because of the length of a vehicle or combination of vehicles, a turn can not be made within the confines of the lanes referred to in subsection (2), (3), (5) or (6), a driver, when making such a turn, is not in contravention of any such subsection if he complies with the applicable provision as closely as practicable.

16. Section 124 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 15 and 1983, chapter 63, section 28, is repealed and the following substituted therefor:

Interpretation

124.—(1) In this section,

(a) “driver” includes an operator of a street car;

(b) “emergency vehicle” means,

(i) a fire department vehicle as defined in clause 43 (b) while proceeding to a fire or responding to, but not while returning from, a fire alarm or other emergency call,

(ii) a vehicle while used by a person in the lawful performance of his duties as a police officer,

(iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation, or

(iv) a cardiac arrest emergency vehicle operated by or under the authority of a hospital,

on which a siren is continuously sounding and from which intermittent flashes of red light are visible from all directions;

- (c) "intersection" includes any portion of a highway indicated by markings on the surface of the roadway as a crossing place for pedestrians;
- (d) "pedestrian" includes a person in a wheelchair;
- (e) "vehicle" includes a street car.

(2) For purposes of this section, where a highway includes two roadways fifteen metres or more apart crossed by an intersecting roadway, each crossing shall be considered a separate intersection. Idem

(3) The fifteen metres referred to in subsection (2) shall include exclusive left turn lanes where they exist. Idem

(4) A driver who is directed by a traffic signal erected at an intersection to stop his vehicle shall stop, Where to stop—
intersection

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, immediately before entering the intersection.

(5) A driver who is directed by a traffic signal erected at a location other than at an intersection to stop his vehicle shall stop, Where to stop—
non-inter-
section

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, not less than five metres before the nearest traffic control signal.

(6) When under this section a driver is permitted to proceed, the driver shall yield the right of way to pedestrians lawfully within a crosswalk. Yielding to
pedestrians

Yielding to
traffic

(7) When under this section a driver is permitted to proceed, he shall yield the right of way to traffic lawfully using an intersection or, where signals are erected where a private road or driveway meets a highway, lawfully using the area controlled by the signals.

Signs

(8) The provisions of this section are subject to any sign, as prescribed by the regulations, forbidding a left turn, right turn, through movement or combination thereof that is posted at an intersection and every driver shall obey every such sign.

Obeying
lane lights

(9) Every driver shall obey every traffic control signal that applies to the lane that he is in.

Green light

(10) A driver approaching a traffic control signal showing a circular green indication and facing the indication may proceed forward or turn left or right unless otherwise directed.

Flashing
green

(11) A driver approaching a traffic control signal showing a circular flashing green indication or a solid or flashing left turn green arrow indication in conjunction with a circular green indication and facing the indication may, notwithstanding subsection 121 (4), proceed forward or turn left or right unless otherwise directed.

Green arrow

(12) Every driver approaching a traffic control signal showing one or more green arrow indications only or in combination with a circular red or circular amber indication and facing the indication may proceed only to follow the direction shown by the arrow.

Amber light

(13) Every driver approaching a traffic control signal showing a circular amber indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution.

Amber arrow

(14) Every driver approaching a traffic control signal showing an amber arrow indication only or in combination with another indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution to follow the direction shown by the amber arrow indication.

Flashing
amber

(15) Every driver approaching a traffic control signal showing a flashing circular amber indication and facing the indication may proceed with caution.

Red light

(16) Every driver approaching a traffic control signal showing a circular red indication and facing the indication shall

stop his vehicle and shall not proceed until a green indication is shown.

(17) Notwithstanding subsection (16) and subject to subsection (12), a driver, after stopping his vehicle and yielding the right of way to traffic lawfully approaching so closely that to proceed would constitute an immediate hazard, may,

Exception
—turn

(a) turn to the right; or

(b) turn to the left from a one-way street into a one-way street,

without a green indication being shown.

(18) Notwithstanding subsection (16), a driver of an emergency vehicle, after stopping the vehicle, may proceed without a green indication being shown if it is safe to do so.

Exception
—emergency vehicle

(19) Every driver approaching a traffic control signal and facing a flashing circular red indication shall stop his vehicle, shall yield the right of way to traffic approaching so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

Stopping at flashing red light

(20) Where portions of a roadway are marked for pedestrian use, no pedestrian shall cross the roadway except within a portion so marked.

Pedestrian crossing

(21) Subject to subsections (22) and (25), a pedestrian approaching a traffic control signal showing a circular green indication or a straight-ahead green arrow indication and facing the indication may cross the roadway.

Pedestrian —green light

(22) No pedestrian approaching a traffic control signal and facing a flashing circular green indication or a solid or a flashing left turn arrow indication in conjunction with a circular green indication shall enter the roadway.

Pedestrian —stopping at flashing green light

(23) No pedestrian approaching a traffic control signal and facing a red or amber indication shall enter the roadway.

Pedestrian —stopping at red or amber light

(24) Where pedestrian control signals are installed and show a "walk" indication, every pedestrian facing the indication may cross the roadway in the direction of the indication notwithstanding subsections (22) and (23).

Pedestrian control signals —walk

(25) No pedestrian approaching pedestrian control signals and facing a solid or flashing "don't walk" indication shall enter the roadway.

Pedestrian control signals —don't walk

Pedestrian
right of way

(26) Every pedestrian who lawfully enters a roadway in order to cross may continue the crossing as quickly as reasonably possible notwithstanding a change in the indication he is facing and, for purposes of the crossing, has the right of way over vehicles.

Symbols

(27) The "walk" or "don't walk" pedestrian control indications referred to in this section may be shown as symbols as prescribed by the regulations.

Erection of
traffic control
signals

(28) No traffic control signal system or traffic control signals used in conjunction with a traffic control system shall be erected or installed except in accordance with an approval obtained from the Minister or an official of the Ministry authorized by the Minister in writing to grant such approval.

Regulations

(29) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards or specifications of a traffic control signal system;
- (b) prescribing the location of traffic control signals and signal systems;
- (c) prescribing standards for operating and maintaining a traffic control signal system;
- (d) regulating the use and operation of traffic control signals and signal systems.

17. Subsections 124a (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 48, section 16 and amended by the Statutes of Ontario, 1983, chapter 63, section 29, are repealed and the following substituted therefor:

Blocking
intersection

(1) The council of a municipality may by by-law prohibit a driver or street car operator approaching, at an intersection, a traffic control signal showing a circular green or green arrow indication from entering the intersection unless traffic in front of him is moving in a manner that would reasonably lead him to believe he can clear the intersection before the signal indication changes to a circular red indication.

Idem

(2) A by-law passed under subsection (1) does not apply to a driver or street car operator who enters an intersection for the purpose of turning to the right or left into an intersecting highway and signals his intention to make such turn prior to entering the intersection.

18. Section 125 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 30, is repealed and the following substituted therefor:

125.—(1) Notwithstanding subsection 124 (28), during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway or any person authorized by that authority. Portable
signal lights

(2) A driver or a street car operator approaching a portable lane control signal showing a circular green indication and facing the indication may proceed. Green light

(3) Every driver or street car operator approaching a portable lane control signal showing a circular amber indication and facing such indication shall stop his vehicle or street car if he can do so safely, otherwise he may proceed with caution. Amber light

(4) Every driver or street car operator approaching a portable lane control signal showing a circular red indication and facing the indication shall stop his vehicle or street car and shall not proceed until a circular green indication is shown. Red light

(5) A driver or operator who is required, under this section, to stop his vehicle or street car shall do so at a sign or marking on the highway indicating where a stop is to be made or, if there is no such sign or marking, not less than five metres before the nearest portable lane control signal. Where to
stop

(6) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing,
etc., port-
able system

(7) The Lieutenant Governor in Council may make regulations, Regulations
re portable
lane control
devices

- (a) prescribing standards or specifications for portable lane control signal systems;
- (b) prescribing locations where portable lane control signal systems may be erected; and
- (c) prescribing standards for operating and maintaining portable lane control signal systems.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 5 and 1983, chapter 63, section 34, is repealed and the following substituted therefor:

Interpretation **151.**—(1) In this section,

- (a) “children” means,
 - (i) persons under the age of eighteen, and
 - (ii) in the case where a school bus is being operated by or under a contract with a school board or other authority in charge of a school for the transportation of children to or from school, includes students of the school;
- (b) “school” does not include a post-secondary school educational institution;
- (c) “school bus” means a chrome yellow bus that is used for the transportation of,
 - (i) children, or
 - (ii) mentally retarded adults to or from a training centre,

that bears on the front and rear thereof the words “school bus” and on the rear thereof the words “do not pass when signals flashing”.

Idem (2) For the purposes of subsection (3), a motor vehicle shall be deemed to be a bus if it is or has been operated under the authority of a permit issued under section 7 for which a bus fee was paid.

Prohibition (3) No bus, other than a school bus, shall be painted chrome yellow.

Idem (4) No motor vehicle, other than a school bus, shall bear the words “do not pass when signals flashing” or the words “school bus”.

Duty of driver when school bus stopped on highway (5) Every driver or street car operator when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its red signal-lights flashing, shall stop before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

Idem (6) Every driver or street car operator when overtaking on a highway a stopped school bus that has its red signal-lights flashing, shall stop at least 20 metres before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

(7) Subject to subsection (10), every driver of a school bus on a highway, Duty of school bus driver

(a) who is about to stop for the purpose of receiving or discharging children or mentally retarded adults, shall actuate the red signal-lights on the bus;

(b) as soon as the bus is stopped, for a purpose set out in clause (a), shall actuate the school bus stop arm; and

(c) while the bus is stopped, for a purpose set out in clause (a), shall continue the signal-lights and stop arm in operation,

and subsection 147 (1) does not apply to a driver who stops in accordance with this subsection.

(8) Where a school bus driver has stopped, on a highway that does not have a median strip, for a purpose set out in clause (7) (a), the driver shall continue the signal-lights and stop arm in operation until all passengers leaving the bus who are crossing the highway have completed the crossing. Idem

(9) Subsections (7) and (8) do not apply where the bus is stopped at a place where a signal-light traffic control system is in operation. Exception

(10) In accordance with the regulations, a council of a municipality may by by-law designate school bus loading zones on highways under its jurisdiction to which subsection (7) does not apply. School bus loading zones

(11) No by-law passed under subsection (10) becomes effective until the highways or portions thereof affected are marked to comply with this Act and the regulations. Signing

(12) No person shall actuate the red signal-lights or the stop arm on the school bus on a highway under any circumstances other than those set out in subsection (7). Actuating red signal-lights, stop arm

(13) No person shall stop a school bus on a highway for the purpose of receiving or discharging children on a highway, School bus stopping at designated loading zones

(a) opposite a designated school bus loading zone; or

(b) at a designated school bus loading zone, except as closely as practicable to the right curb or edge of the roadway.

When words
to be
covered

(14) The words on a school bus "do not pass when signals flashing" and "school bus" shall be concealed while the bus is operated on a highway during a trip that does not involve, at any time during that trip, the transportation of mentally retarded adults to or from a training centre or of children.

When words
to be
exposed

(15) Every school bus transporting, on a highway, children to or from school or mentally retarded adults to or from a training centre shall have the words "school bus" and "do not pass when signals flashing" exposed.

Optional

(16) Where a school bus is transporting children other than to or from a school, the words "school bus" and "do not pass when signals flashing" may be exposed or concealed.

Regulations
re school
buses

(17) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles used for transporting children or for transporting mentally retarded adults to or from a training centre;
- (b) prescribing the type, design and colour of vehicles referred to in clause (a) and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in vehicles referred to in clause (a) and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of vehicles referred to in clause (a) and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of vehicles referred to in clause (a);
- (f) respecting the designation of school bus loading zones, the location thereof, the erection of signs and the placing of markings on highways;
- (g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children or mentally retarded adults;
- (h) requiring the retention of prescribed books within vehicles and prescribing the information to be contained and the entries to be recorded in the books.

(18) Any regulation made under subsection (17) may be general or particular in its application. Scope of regulations

(19) Every person who contravenes subsection (5) or (6) is guilty of an offence and on conviction is liable, Penalty

(a) for a first offence, to a fine of not less than \$100 and not more than \$500; and

(b) for each subsequent offence, to a fine of not less than \$250 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(20) An offence referred to in subsection (19) committed five years or longer after the date of a previous conviction for either of the offences referred to in subsection (19) is not a subsequent offence for the purpose of clause (19) (b). Time limit for subsequent offence

20. Subsection 152 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section, "school crossing guard" means a person sixteen years of age or older who is directing the movement of children across a highway and who is, Interpretation

(a) employed by a municipality; or

(b) employed by a corporation under contract with a municipality to provide the services of a school crossing guard.

21.—(1) Subsection 173 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 40, is further amended by striking out "\$400" in the fourth line and inserting in lieu thereof "an amount prescribed by regulation".

(2) The said section 173 is amended by adding thereto the following subsection:

(5) The Lieutenant Governor in Council may make regulations prescribing the amount of property damage for the purposes of subsection (1). Regulations as to amount of property damage

22.—(1) This Act, except subsections 3 (1) and (2), section 4 and sections 9 to 18 and 21, comes into force on the day it receives Royal Assent. Commencement

Idem

(2) Subsections 3 (1) and (2), section 4 and sections 9 to 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(3) Section 21 comes into force on the 1st day of January, 1985.

Short title

23. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.

Bill 45

*(Chapter 21
Statutes of Ontario, 1984)*

An Act to amend the Highway Traffic Act

The Hon. J. W. Snow

Minister of Transportation and Communications

<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	June 7th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984



Bill 45

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 5 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (d) providing for the payment of administrative fees for the reinstatement of suspended licences and for the exemption from payment of such fees on the basis of grounds for suspension;
- (e) providing for the payment of administrative fees for handling dishonoured cheques tendered as payment for the issue, renewal, replacement, transfer, validation or reinstatement of permits, licences and number plates;
- (f) prescribing a rate of interest for purposes of subsection (2), when interest starts to run and the method of calculating the interest;
- (g) prescribing penalties for the purposes of subsection (2) and the method of determining the amount of any penalty.

(2) The said section 5 is further amended by adding thereto the following subsection:

(2) Where a cheque tendered as payment for any fee is dishonoured, interest at a prescribed rate may be charged on the amount of the cheque and a penalty may be imposed.

Interest and penalties when cheque dishonoured

2. Part III of the said Act is amended by adding thereto the following section:

17a. The purpose of this Part is to protect the public by ensuring that the privilege of driving on a highway is granted

Driving a privilege

to, and retained by, only those persons who demonstrate that they are likely to drive safely.

3.—(1) Section 18 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 7, is further amended by adding thereto the following subsections:

Air brake
endorsement

(1b) No person shall drive, on a highway, a vehicle equipped with air brakes unless the licence of that person is endorsed to permit the driving of a vehicle of that class equipped with air brakes.

Idem

(1c) The Minister shall endorse the driver's licence of every person who applies therefor and meets the requirements prescribed by the regulations with the endorsement referred to in subsection (1b).

(2) The said section 18 is further amended by adding thereto the following subsection:

Contingent
validity

(2b) Where a driver's licence issued under subsection (2) has been suspended, it is not valid for purposes of subsection (1) until the prescribed administrative fee for its reinstatement has been paid.

(3) Subsection 18 (7) of the said Act is amended by adding thereto the following clause:

(h) prescribing the requirements to be met by an applicant for an endorsement to a driver's licence for any class of vehicle.

4.—(1) Subsection 26 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 11, is repealed and the following substituted therefor:

Suspension
on conviction
for certain
offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or a street car or a motorized snow vehicle or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or a motorized snow vehicle or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act or a motorized snow vehicle is thereupon and hereby suspended for a period of,

(a) upon the first conviction, three months;

- (b) upon the first subsequent conviction, six months; and
- (c) upon an additional subsequent conviction, three years,

provided that where an order has been made before the 26th day of April, 1976 under subsection 238 (1) of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

R.S.C. 1970,
c. C-34

(2) Subsection 26 (2) of the said Act is repealed and the following substituted therefor:

(2) Where a person who has previously been convicted of an offence mentioned in subsection (1) is convicted of the same or any other offence mentioned in subsection (1) within five years after the previous conviction, the last conviction shall be deemed to be a subsequent conviction for the purposes of clauses (1) (b) and (c).

Subsequent
offence
within five-
year period

5. Section 30a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is amended by adding thereto the following subsection:

- (13) In this section,
 - (a) "driver's licence" includes a motorized snow vehicle operator's licence; and
 - (b) "motor vehicle" includes a motorized snow vehicle.

Interpretation

6. Clause 74 (3) (a) of the said Act is repealed and the following substituted therefor:

- (a) the vehicle has been inspected by a motor vehicle inspection mechanic in the motor vehicle inspection station and the vehicle complies with the inspection requirements and performance standards prescribed by the regulations; and

7. Subsection 92 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 4, is repealed and the following substituted therefor:

Length of
vehicle

(6) Subject to section 93, no vehicle, other than a fire apparatus, a semi-trailer or a bus, including load, shall exceed the length of 12.5 metres while on a highway.

Length of
combination

(6a) No combination of vehicles, including load, coupled together shall exceed the total length of twenty-three metres while on a highway.

Idem

(6b) No combination of vehicles shall be operated on a highway where the distance from the back of the driver's compartment of the tractor to the rearmost part of the combination of vehicles exceeds nineteen metres, unless the distance from the centre of the kingpin of the foremost trailer to the rearmost part of the combination of vehicles is 16.75 metres or less.

Interpretation

(6c) For the purposes of subsection (6b), a sleeping compartment shall be considered as part of the driver's compartment.

8. Subsection 109 (12) of the said Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

- (c) an ambulance as defined in clause 43 (a) while responding to an emergency call or being used to transport a patient or injured person in an emergency situation.

9. Part IX of the said Act is amended by adding thereto the following section:

Interpretation

113a. In this Part,

- (a) "indication" means a signal lens display that is activated by internal illumination;
- (b) "traffic control signal" means that part of a traffic control signal system that consists of one set of no less than three coloured lenses, red, amber and green, mounted on a frame and commonly referred to as a signal head;
- (c) "traffic control signal system" means all of the signal equipment making up the installation at any location.

10. Section 115 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 23, is repealed and the following substituted therefor:

115.—(1) This section applies where an intersection is not controlled by a stop or yield sign or a traffic control signal system. Application

(2) Every driver approaching an intersection shall yield the right of way to any vehicle in the intersection that has entered it from an intersecting highway. Right of way

(3) When two vehicles enter an intersection from intersecting highways at approximately the same time, the driver on the left shall yield the right of way to the vehicle on the right. Idem

(4) In this section, “driver” includes street car operator and “vehicle” includes street car. Interpretation

11. Section 116 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 24, is repealed and the following substituted therefor:

116.—(1) Every driver or street car operator approaching a stop sign at an intersection, Stop at through highway

(a) shall stop his vehicle or street car at a marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and

(b) shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

(2) Every driver or street car operator approaching, on another highway, an intersection referred to in subsection (1), shall yield the right of way to every driver or operator who has complied with the requirements of subsection (1). Acquiring right of way

12. Subsection 118 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 25, is further amended by striking out “116 (a)” in the fourth line and inserting in lieu thereof “116 (1) (a)”.

13. Section 119 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 14 and 1983, chapter 63, section 26, is repealed and the following substituted therefor:

119.—(1) Every driver or street car operator entering a highway from a private road or driveway shall yield the right Right of way on entering highway from private road

of way to all traffic approaching on the highway so closely that to enter would constitute an immediate hazard.

Exception
to subs. (1)

(2) Subsection (1) does not apply to a driver or operator entering a highway from a private road or driveway controlled by a traffic control signal of a traffic control signal system.

14. Section 120 of the said Act is amended by adding thereto the following subsection:

Municipal
by-laws

(5) No municipal by-law that purports to designate a pedestrian crossover on a highway on which the maximum speed limit is in excess of 60 kilometres per hour is valid.

15. Section 121 of the said Act is amended by adding thereto the following subsection:

Long
vehicles

(7) Where, because of the length of a vehicle or combination of vehicles, a turn can not be made within the confines of the lanes referred to in subsection (2), (3), (5) or (6), a driver, when making such a turn, is not in contravention of any such subsection if he complies with the applicable provision as closely as practicable.

16. Section 124 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 15 and 1983, chapter 63, section 28, is repealed and the following substituted therefor:

Interpretation

124.—(1) In this section,

- (a) "driver" includes an operator of a street car;
- (b) "emergency vehicle" means,
 - (i) a fire department vehicle as defined in clause 43 (b) while proceeding to a fire or responding to, but not while returning from, a fire alarm or other emergency call,
 - (ii) a vehicle while used by a person in the lawful performance of his duties as a police officer,
 - (iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation, or
 - (iv) a cardiac arrest emergency vehicle operated by or under the authority of a hospital,

on which a siren is continuously sounding and from which intermittent flashes of red light are visible from all directions;

- (c) "intersection" includes any portion of a highway indicated by markings on the surface of the roadway as a crossing place for pedestrians;
- (d) "pedestrian" includes a person in a wheelchair;
- (e) "vehicle" includes a street car.

(2) For purposes of this section, where a highway includes two roadways fifteen metres or more apart crossed by an intersecting roadway, each crossing shall be considered a separate intersection. Idem

(3) The fifteen metres referred to in subsection (2) shall include exclusive left turn lanes where they exist. Idem

(4) A driver who is directed by a traffic signal erected at an intersection to stop his vehicle shall stop, Where to stop—
intersection

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, immediately before entering the intersection.

(5) A driver who is directed by a traffic signal erected at a location other than at an intersection to stop his vehicle shall stop, Where to stop—
non-inter-
section

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, not less than five metres before the nearest traffic control signal.

(6) When under this section a driver is permitted to proceed, the driver shall yield the right of way to pedestrians lawfully within a crosswalk. Yielding to
pedestrians

Yielding to
traffic

(7) When under this section a driver is permitted to proceed, he shall yield the right of way to traffic lawfully using an intersection or, where signals are erected where a private road or driveway meets a highway, lawfully using the area controlled by the signals.

Signs

(8) The provisions of this section are subject to any sign, as prescribed by the regulations, forbidding a left turn, right turn, through movement or combination thereof that is posted at an intersection and every driver shall obey every such sign.

Obeying
lane lights

(9) Every driver shall obey every traffic control signal that applies to the lane that he is in.

Green light

(10) A driver approaching a traffic control signal showing a circular green indication and facing the indication may proceed forward or turn left or right unless otherwise directed.

Flashing
green

(11) A driver approaching a traffic control signal showing a circular flashing green indication or a solid or flashing left turn green arrow indication in conjunction with a circular green indication and facing the indication may, notwithstanding subsection 121 (4), proceed forward or turn left or right unless otherwise directed.

Green arrow

(12) Every driver approaching a traffic control signal showing one or more green arrow indications only or in combination with a circular red or circular amber indication and facing the indication may proceed only to follow the direction shown by the arrow.

Amber light

(13) Every driver approaching a traffic control signal showing a circular amber indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution.

Amber arrow

(14) Every driver approaching a traffic control signal showing an amber arrow indication only or in combination with another indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution to follow the direction shown by the amber arrow indication.

Flashing
amber

(15) Every driver approaching a traffic control signal showing a flashing circular amber indication and facing the indication may proceed with caution.

Red light

(16) Every driver approaching a traffic control signal showing a circular red indication and facing the indication shall

stop his vehicle and shall not proceed until a green indication is shown.

(17) Notwithstanding subsection (16) and subject to subsection (12), a driver, after stopping his vehicle and yielding the right of way to traffic lawfully approaching so closely that to proceed would constitute an immediate hazard, may,

Exception
—turn

(a) turn to the right; or

(b) turn to the left from a one-way street into a one-way street,

without a green indication being shown.

(18) Notwithstanding subsection (16), a driver of an emergency vehicle, after stopping the vehicle, may proceed without a green indication being shown if it is safe to do so.

Exception
—emergency vehicle

(19) Every driver approaching a traffic control signal and facing a flashing circular red indication shall stop his vehicle, shall yield the right of way to traffic approaching so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

Stopping
at flashing
red light

(20) Where portions of a roadway are marked for pedestrian use, no pedestrian shall cross the roadway except within a portion so marked.

Pedestrian
crossing

(21) Subject to subsections (22) and (25), a pedestrian approaching a traffic control signal showing a circular green indication or a straight-ahead green arrow indication and facing the indication may cross the roadway.

Pedestrian
—green light

(22) No pedestrian approaching a traffic control signal and facing a flashing circular green indication or a solid or a flashing left turn arrow indication in conjunction with a circular green indication shall enter the roadway.

Pedestrian
—stopping at
flashing
green light

(23) No pedestrian approaching a traffic control signal and facing a red or amber indication shall enter the roadway.

Pedestrian
—stopping
at red or
amber light

(24) Where pedestrian control signals are installed and show a "walk" indication, every pedestrian facing the indication may cross the roadway in the direction of the indication notwithstanding subsections (22) and (23).

Pedestrian
control
signals
—walk

(25) No pedestrian approaching pedestrian control signals and facing a solid or flashing "don't walk" indication shall enter the roadway.

Pedestrian
control
signals
—don't walk

Pedestrian
right of way

(26) Every pedestrian who lawfully enters a roadway in order to cross may continue the crossing as quickly as reasonably possible notwithstanding a change in the indication he is facing and, for purposes of the crossing, has the right of way over vehicles.

Symbols

(27) The "walk" or "don't walk" pedestrian control indications referred to in this section may be shown as symbols as prescribed by the regulations.

Erection of
traffic control
signals

(28) No traffic control signal system or traffic control signals used in conjunction with a traffic control system shall be erected or installed except in accordance with an approval obtained from the Minister or an official of the Ministry authorized by the Minister in writing to grant such approval.

Regulations

(29) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards or specifications of a traffic control signal system;
- (b) prescribing the location of traffic control signals and signal systems;
- (c) prescribing standards for operating and maintaining a traffic control signal system;
- (d) regulating the use and operation of traffic control signals and signal systems.

17. Subsections 124a (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 48, section 16 and amended by the Statutes of Ontario, 1983, chapter 63, section 29, are repealed and the following substituted therefor:

Blocking
intersection

(1) The council of a municipality may by by-law prohibit a driver or street car operator approaching, at an intersection, a traffic control signal showing a circular green or green arrow indication from entering the intersection unless traffic in front of him is moving in a manner that would reasonably lead him to believe he can clear the intersection before the signal indication changes to a circular red indication.

Idem

(2) A by-law passed under subsection (1) does not apply to a driver or street car operator who enters an intersection for the purpose of turning to the right or left into an intersecting highway and signals his intention to make such turn prior to entering the intersection.

18. Section 125 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 30, is repealed and the following substituted therefor:

125.—(1) Notwithstanding subsection 124 (28), during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway or any person authorized by that authority. Portable
signal lights

(2) A driver or a street car operator approaching a portable lane control signal showing a circular green indication and facing the indication may proceed. Green light

(3) Every driver or street car operator approaching a portable lane control signal showing a circular amber indication and facing such indication shall stop his vehicle or street car if he can do so safely, otherwise he may proceed with caution. Amber light

(4) Every driver or street car operator approaching a portable lane control signal showing a circular red indication and facing the indication shall stop his vehicle or street car and shall not proceed until a circular green indication is shown. Red light

(5) A driver or operator who is required, under this section, to stop his vehicle or street car shall do so at a sign or marking on the highway indicating where a stop is to be made or, if there is no such sign or marking, not less than five metres before the nearest portable lane control signal. Where to
stop

(6) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing,
etc., port-
able system

(7) The Lieutenant Governor in Council may make regulations, Regulations
re portable
lane control
devices

(a) prescribing standards or specifications for portable lane control signal systems;

(b) prescribing locations where portable lane control signal systems may be erected; and

(c) prescribing standards for operating and maintaining portable lane control signal systems.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 5 and 1983, chapter 63, section 34, is repealed and the following substituted therefor:

Interpretation

151.—(1) In this section,

(a) “children” means,

(i) persons under the age of eighteen, and

(ii) in the case where a school bus is being operated by or under a contract with a school board or other authority in charge of a school for the transportation of children to or from school, includes students of the school;

(b) “school” does not include a post-secondary school educational institution;

(c) “school bus” means a chrome yellow bus that is used for the transportation of,

(i) children, or

(ii) mentally retarded adults to or from a training centre,

that bears on the front and rear thereof the words “school bus” and on the rear thereof the words “do not pass when signals flashing”.

Idem

(2) For the purposes of subsection (3), a motor vehicle shall be deemed to be a bus if it is or has been operated under the authority of a permit issued under section 7 for which a bus fee was paid.

Prohibition

(3) No bus, other than a school bus, shall be painted chrome yellow.

Idem

(4) No motor vehicle, other than a school bus, shall bear the words “do not pass when signals flashing” or the words “school bus”.

Duty of driver when school bus stopped on highway

(5) Every driver or street car operator when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its red signal-lights flashing, shall stop before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

Idem

(6) Every driver or street car operator when overtaking on a highway a stopped school bus that has its red signal-lights flashing, shall stop at least 20 metres before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

(7) Subject to subsection (10), every driver of a school bus on a highway,

Duty of school bus driver

- (a) who is about to stop for the purpose of receiving or discharging children or mentally retarded adults, shall actuate the red signal-lights on the bus;
- (b) as soon as the bus is stopped, for a purpose set out in clause (a), shall actuate the school bus stop arm; and
- (c) while the bus is stopped, for a purpose set out in clause (a), shall continue the signal-lights and stop arm in operation,

and subsection 147 (1) does not apply to a driver who stops in accordance with this subsection.

(8) Where a school bus driver has stopped, on a highway that does not have a median strip, for a purpose set out in clause (7) (a), the driver shall continue the signal-lights and stop arm in operation until all passengers leaving the bus who are crossing the highway have completed the crossing.

Idem

(9) Subsections (7) and (8) do not apply where the bus is stopped at a place where a signal-light traffic control system is in operation.

Exception

(10) In accordance with the regulations, a council of a municipality may by by-law designate school bus loading zones on highways under its jurisdiction to which subsection (7) does not apply.

School bus loading zones

(11) No by-law passed under subsection (10) becomes effective until the highways or portions thereof affected are marked to comply with this Act and the regulations.

Signing

(12) No person shall actuate the red signal-lights or the stop arm on the school bus on a highway under any circumstances other than those set out in subsection (7).

Actuating red signal-lights, stop arm

(13) No person shall stop a school bus on a highway for the purpose of receiving or discharging children on a highway,

School bus stopping at designated loading zones

- (a) opposite a designated school bus loading zone; or
- (b) at a designated school bus loading zone, except as closely as practicable to the right curb or edge of the roadway.

When words
to be
covered

(14) The words on a school bus "do not pass when signals flashing" and "school bus" shall be concealed while the bus is operated on a highway during a trip that does not involve, at any time during that trip, the transportation of mentally retarded adults to or from a training centre or of children.

When words
to be
exposed

(15) Every school bus transporting, on a highway, children to or from school or mentally retarded adults to or from a training centre shall have the words "school bus" and "do not pass when signals flashing" exposed.

Optional

(16) Where a school bus is transporting children other than to or from a school, the words "school bus" and "do not pass when signals flashing" may be exposed or concealed.

Regulations
re school
buses

(17) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles used for transporting children or for transporting mentally retarded adults to or from a training centre;
- (b) prescribing the type, design and colour of vehicles referred to in clause (a) and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in vehicles referred to in clause (a) and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of vehicles referred to in clause (a) and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of vehicles referred to in clause (a);
- (f) respecting the designation of school bus loading zones, the location thereof, the erection of signs and the placing of markings on highways;
- (g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children or mentally retarded adults;
- (h) requiring the retention of prescribed books within vehicles and prescribing the information to be contained and the entries to be recorded in the books.

(18) Any regulation made under subsection (17) may be general or particular in its application. Scope of regulations

(19) Every person who contravenes subsection (5) or (6) is guilty of an offence and on conviction is liable, Penalty

(a) for a first offence, to a fine of not less than \$100 and not more than \$500; and

(b) for each subsequent offence, to a fine of not less than \$250 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(20) An offence referred to in subsection (19) committed five years or longer after the date of a previous conviction for either of the offences referred to in subsection (19) is not a subsequent offence for the purpose of clause (19) (b). Time limit for subsequent offence

20. Subsection 152 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section, "school crossing guard" means a person sixteen years of age or older who is directing the movement of children across a highway and who is, Interpretation

(a) employed by a municipality; or

(b) employed by a corporation under contract with a municipality to provide the services of a school crossing guard.

21.—(1) Subsection 173 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 40, is further amended by striking out "\$400" in the fourth line and inserting in lieu thereof "an amount prescribed by regulation".

(2) The said section 173 is amended by adding thereto the following subsection:

(5) The Lieutenant Governor in Council may make regulations prescribing the amount of property damage for the purposes of subsection (1). Regulations as to amount of property damage

22.—(1) This Act, except subsections 3 (1) and (2), section 4 and sections 9 to 18 and 21, comes into force on the day it receives Royal Assent. Commencement

Idem

(2) Subsections 3 (1) and (2), section 4 and sections 9 to 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(3) Section 21 comes into force on the 1st day of January, 1985.

Short title

23. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.



Bill 46

An Act respecting French Language Services in Ontario

Mr. Roy

1st Reading April 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill places a duty on the Government of Ontario to provide, as of right, public services in the French language to the citizens of Ontario subject to certain conditions set out in the Bill. The Bill also establishes the office of the French Language Services Coordinator and the Language Services Board to aid in improving the availability of French language services in Ontario.

NOTE EXPLICATIVE

Ce projet de loi fait obligation au gouvernement de l'Ontario d'assurer, de droit, des services publics en français aux citoyens de l'Ontario, sous réserve de certaines conditions énoncées dans le texte. Ce projet de loi établit aussi le poste de Coordonnateur des services en langue française ainsi que le Conseil des services en langue française aux fins d'améliorer la disponibilité de services en langue française en Ontario.

Bill 46**1984**

**An Act respecting
French Language Services in Ontario**

Whereas the French language is an historic, honoured and constitutional language of Canada, and whereas there is need to give legal definition to the rights of citizens to have Ontario Government services provided in French; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Language Services Board established under section 5;
- (b) "Co-ordinator" means the French Language Services Co-ordinator appointed under section 6;
- (c) "Government of Ontario" includes every board, commission, corporation and agency thereof.

2. Subject to section 7, the Government of Ontario shall ensure the provision of educational, judicial, health, social, municipal and other public services in Ontario in the French language in accordance with this Act and with recommendations contained in the report of the Language Services Board or a report of the Co-ordinator of French Language Services. Government
to provide
French
language
services

3. The English and French languages may be used by any person in any proceedings of the Legislative Assembly or a committee thereof, and the Order Papers, Votes and Proceedings, records and reports of the Assembly or any committee thereof may be printed in both the English and French languages, and any Bill or motion may be introduced in both the English and French languages, and any Act of the Legislative Assembly may be printed and published in both the English and French languages. Legislative
Assembly

Statutes

4.—(1) Subject to sections 6 and 7, the Acts designated by the Co-ordinator of French Language Services shall be printed and published in English and French and the annual Statutes of Ontario shall be printed and published in English and French.

Statutes

(2) Any regulation, proclamation or notice issued in Ontario may be issued in both English and French and where a regulation, proclamation or notice is issued in both languages and is required to be printed in *The Ontario Gazette*, the regulation, proclamation or notice shall be published accordingly in both languages.

Language
Services
Board

5.—(1) The Language Services Board is hereby established and shall be composed of the Co-ordinator of French Language Services, the Chairman of the Civil Service Commission and three members appointed by the Lieutenant Governor in Council of whom at least two shall be persons who are not members of the public service at the time of appointment.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman who shall be a person capable of speaking and understanding the English and French languages.

Term of
office

(3) The members of the Board shall be appointed to hold office for a term of one year commencing on the day of the appointment of the chairman and the Board is terminated on the day on which the terms of office expire.

Duties

(4) The Language Services Board shall,

- (a) review the availability of French language services in all parts of Ontario;
- (b) recommend and designate areas of the Province of Ontario in which government services shall be provided in both English and French;
- (c) recommend the extent to which French language services should be provided in those parts of the Province of Ontario not designated under clause (b);
- (d) recommend a time schedule for implementing the recommendations in clauses (b) and (c), and the Board shall report its findings and recommendations to the Premier before the day on which the Board is terminated and the Premier shall forthwith lay the

report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

6.—(1) A Co-ordinator of French Language Services shall be appointed by the Lieutenant Governor in Council who shall have the rank of Deputy Minister and who shall be responsible for supervising and co-ordinating the provision of French Language Services in Ontario.

Co-ordinator of French Language Services

(2) A French Language Services Committee is hereby established to be composed of one representative from each Ministry of the Government to assist the French Language Services Co-ordinator in carrying out his duties under this Act.

French Language Services Committee

(3) The Co-ordinator after the close of each calendar year shall submit to the Premier an annual report containing an assessment of the availability of French language services in Ontario and any recommendations the Co-ordinator may feel are desirable in order to extend or improve the availability of French language services in Ontario and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Co-ordinator's report

7.—(1) The Government shall implement all recommendations contained in the report of the Language Services Board or a report of the Co-ordinator unless within six months of the day that the report of the Board or Co-ordinator is submitted to the Premier, the Government lays before the Assembly a statement of intention indicating the recommendations which the Government does not intend to implement.

Statement of intention

(2) The report of the Board, every report of the Co-ordinator and every statement of intention stands permanently referred to a Standing Committee of the Legislature for the purposes of examination and review and the Committee shall, at least once in every five year period, review and make recommendations concerning amendments to the Act or changes in administrative procedures designed to improve the availability of French language services in Ontario.

Standing Committee

8.—(1) Nothing in this Act shall be construed as authorizing a reduction in the availability of French language services existing on the day this Act comes into force.

Saving

(2) Nothing in this Act shall be construed to prohibit the Government from providing French language services where the provision of such services has not been recommended or

Idem

considered by the Language Services Board or the Co-ordinator.

Courts

R.S.O. 1980,
c. 223

(3) Court proceedings and hearings shall be conducted in the French language in accordance with the *Judicature Act* as amended from time to time.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Ontario French Language Services Act, 1984*.

Projet de loi 46**1984****Loi concernant les services assurés en français en Ontario**

Attendu le rôle privilégié que l'histoire et la constitution du Canada reconnaissent à la langue française et attendu que la loi doit sanctionner le droit des citoyens à ce que les services du gouvernement de l'Ontario soient assurés en français, Préambule

Sa Majesté, sur l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit:

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«Conseil» Conseil des services en langue française établi par l'article 5.

«Coordonnateur» Coordonnateur des services en langue française nommé en vertu de l'article 6.

«Gouvernement de l'Ontario» Comprend tout conseil, toute commission, société et tout organisme du gouvernement de l'Ontario.

2 Sous réserve de l'article 7, le gouvernement de l'Ontario assure les services éducatifs, judiciaires, de santé publique, sociaux, municipaux et les autres services publics en français dans la province conformément à la présente loi et aux recommandations du rapport du Conseil des services en langue française ou d'un rapport du Coordonnateur des services en langue française. Prestation par le gouvernement de services en langue française

3 Quiconque peut employer l'anglais et le français dans toutes délibérations de l'Assemblée législative ou d'un de ses comités et les feuillets, procès-verbaux, comptes rendus et rapports de l'Assemblée ou d'un de ses comités peuvent être imprimés en anglais et en français, et tout projet de loi ou toute motion peuvent être présentés en anglais et en français et toute loi de l'Assemblée législative peut être imprimée et publiée en anglais et en français. Assemblée législative

Lois

4 (1) Sous réserve des articles 6 et 7, les lois désignées par le Coordonnateur des services en langue française sont imprimées et publiées en anglais et en français et les Lois annuelles de l'Ontario sont imprimées et publiées en anglais et en français.

Lois

(2) Tout règlement, toute proclamation ou tout avis émis en Ontario peuvent l'être en anglais et en français et, si un règlement, une proclamation ou un avis sont émis dans les deux langues et doivent être publiés dans l'*Ontario Gazette*, le règlement, la proclamation ou l'avis sont publiés dans les deux langues.

Conseil des services en langue française

5 (1) Il est établi un Conseil des services en langue française composé du Coordonnateur des services en langue française, du président de la Commission de la fonction publique et de trois membres nommés par le lieutenant-gouverneur en conseil, dont deux au moins ne font pas partie de la fonction publique au moment de leur nomination.

Président

(2) Le lieutenant-gouverneur en conseil nomme à titre de président un des membres du Conseil qui parle et comprend l'anglais et le français.

Mandat

(3) Les membres du Conseil sont nommés pour un an à compter du jour de la nomination du président et le Conseil est dissous le jour où les mandats expirent.

Fonctions

(4) Le Conseil des services en langue française

- a) examine la disponibilité des services en langue française dans toutes les régions de la province;
- b) recommande et désigne des régions de la province où les services gouvernementaux doivent être assurés en anglais et en français;
- c) recommande la mesure dans laquelle des services en langue française devraient être assurés dans les régions de la province qui ne sont pas désignées aux termes de l'alinéa b);
- d) recommande un programme d'application des recommandations visées par les alinéas b) et c) et fait rapport de ses conclusions et recommandations au Premier ministre avant sa dissolution et le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

6 (1) Le lieutenant-gouverneur en conseil nomme un Coordonnateur des services en langue française qui a le rang de sous-ministre et a pour fonction de surveiller et de coordonner la prestation de services en langue française en Ontario.

Coordonnateur des services en langue française

(2) Il est établi un Comité des services en langue française composé d'un représentant de chaque ministère et chargé d'aider le Coordonnateur des services en langue française à s'acquitter des fonctions que lui attribue la loi.

Comité des services en langue française

(3) À la fin de chaque année civile, le Coordonnateur présente au Premier ministre un rapport annuel renfermant une évaluation de la disponibilité des services en langue française dans la province et les recommandations du Coordonnateur afin d'en accroître ou améliorer la disponibilité. Le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Rapport du Coordonnateur

7 (1) Le gouvernement applique toutes les recommandations formulées dans le rapport du Conseil des services en langue française ou dans un rapport du Coordonnateur, sauf si, dans les six mois à partir du jour où le rapport du Conseil ou du Coordonnateur est présenté au Premier ministre, le gouvernement dépose à l'Assemblée une déclaration d'intention indiquant les recommandations que le gouvernement n'entend pas appliquer.

Déclaration d'intention

(2) Le rapport du Conseil, chaque rapport du Coordonnateur et chaque déclaration d'intention relèvent en permanence d'un Comité permanent de la Législature qui les examine et les étudie et le Comité, au moins une fois tous les cinq ans, recommande les modifications à apporter à la loi ou aux procédures administratives afin d'améliorer la disponibilité des services en langue française en Ontario.

Comité permanent

8 (1) Rien dans la présente loi ne doit s'interpréter comme permettant de réduire la disponibilité de services en langue française existant le jour de son entrée en vigueur.

Restriction

(2) Rien dans la présente loi ne doit s'interpréter comme empêchant le gouvernement d'assurer des services en langue française là où le Conseil des services en langue française ou le Coordonnateur n'en ont pas recommandé ou examiné la prestation.

Idem

(3) Les poursuites et audiences devant les tribunaux ont lieu en français conformément à la *Loi sur l'organisation judiciaire* modifiée de temps à autre.

Tribunaux
L.R.O. 1980,
c. 223

Entrée en
vigueur

9 La loi entre en vigueur le jour où elle reçoit la sanction royale.

Titre abrégé

10 Le titre abrégé de la loi est *Loi de 1984 sur les services en langue française en Ontario*.



Bill 47

An Act to amend the Time Act

Mr. Cassidy

1st Reading April 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would extend daylight saving time from the first Sunday in March to the first Sunday in November, subject to variation by regulation, thus providing for eight months of daylight saving time per year in Ontario.

Daylight saving time is not now subject to provincial or federal legislation. It is now applied by municipal ordinance from the last Sunday in April, i.e., about 8 weeks before the summer equinox on June 21, to the last Sunday in October, i.e., approximately four months after June 21. The Bill would extend this to about four months on either side of the summer equinox.

Bill 47

1984

An Act to amend the Time Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (3) of the *Time Act*, being chapter 501 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Standard time as fixed by subsections (1) and (2) shall be advanced by one hour from 2 a.m. on the first Sunday in March of each year until 2 a.m. on the first Sunday in November of each year. Daylight saving time

(4) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time as fixed by subsection (1), (2) or (3). Power to vary

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Time Amendment Act, 1984*. Short title

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Bill 48

An Act to establish Midwifery as a Self-governing Health Profession

Mr. Cooke

1st Reading April 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to establish midwifery as an independent, self-governing health profession along the lines of medicine and nursing.

Bill 48**1984**

**An Act to establish Midwifery
as a Self-governing Health Profession**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III-A

MIDWIFERY

67a.—(1) In this Part,

Interpretation

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Midwives of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of midwifery issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of midwifery” means the supervision, care and counselling of women before, during and after pregnancy and labour, and includes,
 - (i) conducting normal deliveries independently,
 - (ii) caring for the newborn,
 - (iii) taking preventive measures,

- (iv) detecting abnormal conditions in mothers and the newborn,
 - (v) obtaining medical assistance,
 - (vi) taking emergency measures in the absence of medical assistance, and
 - (vii) providing counselling and education to the community concerning health, preparation for birth and parenthood, family planning and child care;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
 - (h) "Registrar" means the Registrar of the College;
 - (i) "regulations" means the regulations made under this Part.

Health
discipline

(2) The practice of midwifery is a health discipline to which this Part applies.

College of
Midwives
established

67b.—(1) The College of Midwives of Ontario is established as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

- (2) The objects of the College are,
- (a) to regulate the practice of midwifery and to govern its members in accordance with this Act, the regulations and the by-laws;
 - (b) to establish, maintain and develop standards of knowledge and skill among its members;
 - (c) to establish, maintain and develop standards of qualification and practice for the practice of midwifery;
 - (d) to establish, maintain and develop standards of professional ethics among its members;
 - (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

67c.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his or her membership by filing a written resignation with the Registrar and the member's licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct while a member. Resignation of membership

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct as a member. Cancellation for default of fees

67d.—(1) The Council of the College is established and shall be the governing body and board of directors of the College and shall manage and administer its affairs. Council of the College

(2) The Council shall be composed of, Composition of Council

(a) not fewer than eighteen and not more than twenty-five persons who are members and are elected by the members in the manner provided by the regulations; and

(b) not fewer than six and not more than ten persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

(3) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of the person's appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

(4) Every member who is, Qualifications to vote: members

(a) resident in Ontario;

- (b) licensed to practise midwifery; and
- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

President
and Vice-
President

(5) The Council shall elect annually a President and Vice-President from among its members.

Registrar
and
officers

(6) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

Quorum

(7) A majority of the members of the Council constitutes a quorum.

Powers of
Minister

67e. In addition to the powers and duties conferred under Part I, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

67f. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) requiring every member to file with the Registrar annually a plan for consultation with physicians licensed under Part III and for emergency care of the member's patients by a physician or physicians, and providing that a member's licence may be suspended for failure to file such a plan annually;
- (i) governing the designation of life members of the College and prescribing their rights and privileges;
- (j) prohibiting the practice of midwifery where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (n) respecting the reporting and publication of decisions in disciplinary matters;
- (o) requiring and providing for the inspection and examination of books, accounts, reports and records of members in connection with their practice;

- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (s) prescribing forms and providing for their use;
- (t) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

By-laws

67g.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;

- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

Signing
by-law and
resolutions

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Licence to
practise

67h.—(1) No person shall engage in the practice of midwifery, except in the provision of counselling and education referred to in subclause 67a (1) (f) (vii), or hold himself or herself out as engaging in the practice of midwifery, unless the person is licensed under this Part or under Part III.

Proof of
practice

(2) For the purposes of this section, proof of the performance of one act in the practice of midwifery on one occasion is sufficient to establish engaging in the practice of midwifery.

Conflict
with other
health
discipline

(3) A member or person authorized by the regulations may engage in the practice of midwifery notwithstanding that any part of that practice is included in the practice of another health discipline.

Establish-
ment of
committees

67i.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee; and
- (c) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

67j.—(1) The Executive Committee shall be composed of, Executive Committee

- (a) the President, who shall be chairman of the Committee;
- (b) the Vice-President; and
- (c) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. Duties

67k.—(1) The Registration Committee shall be composed of, Registration Committee

- (a) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council; and
- (b) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration Committee to be chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

67l.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he or she proposes to refuse or to which he or she considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee,

- (a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council

Powers and duties of Registration Committee

may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

- (b) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of qualifications

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on the member's licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise midwifery, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Discipline Committee

67m.—(1) The Discipline Committee shall be composed of ten members of the Council, four of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Composition of panels

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum and votes

(4) Three members of a panel assigned under subsection (3), one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(5) Where a panel of the Discipline Committee commences a hearing and the member of the panel who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

Disability
of lay
member

67n.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, and take such action as it considers appropriate, including proceeding under clause (b) as if the complaint were an allegation of professional misconduct or incompetence;
- (b) hear and determine allegations of professional misconduct or incompetence against members,
 - (i) when so directed by the Council or Executive Committee; and
 - (ii) when the Discipline Committee considers it appropriate to deal with a complaint under this clause as if the complaint were an allegation of professional misconduct or incompetence;
- (c) hear and determine matters referred to it under section 67p;
- (d) hold hearings under section 67o; and
- (e) perform such other duties as are assigned to it by the Council.

(2) No action shall be taken by the Committee under clause (1) (a) unless, Idem

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he or she may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(3) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional misconduct

(4) A member may be found guilty of professional misconduct by the Committee if,

- (a) he or she has been found guilty of an offence relevant to suitability to practise, upon proof of the conviction; or
- (b) he or she has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(5) The Discipline Committee may find a member to be incompetent if in its opinion the member has displayed in the professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates the member is unfit to continue in practice.

Powers of Discipline Committee

(6) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;

- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion thereof as the Discipline Committee fixes. Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office had not expired or been terminated. Continuation on expiry of Committee membership

670.—(1) In this section,

Interpretation

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection (2);
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he or she no longer be permitted to practise or that the member's practice be restricted.

Reference
to board of
inquiry

(2) Where the Registrar receives information leading him or her to believe that a member may be an incapacitated member, the Registrar shall make such inquiry as he or she considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination, the board may order that the member's licence be suspended until the member complies.

Hearing by
Discipline
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Discipline Committee to hold a hearing and may suspend the member's licence until the determination of the question of the member's capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Discipline Committee are parties to a proceeding under this section.

Medical
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his or her case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment, to be signed by the practitioner and served upon the other parties to the proceeding,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Discipline Committee shall, after the hearing,

Powers of
Discipline
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
 - (i) revoke the member's licence,
 - (ii) suspend the member's licence for such period as the Committee considers appropriate, or
 - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply with necessary modifications to proceedings of the Discipline Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

67p.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension.

Restoration
of licence

(2) The Registrar shall refer the application to the Discipline Committee, which shall hold a hearing respecting and

Reference to
Discipline
Committee

decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction by Council to issue licence

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investigation of members

67q.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Registrar.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents

or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon to assist, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Removal of books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he or she considers appropriate.

Report of Registrar

67r.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 67q, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 67q and shall not communicate any such matters to any other person except,

Matters confidential

- (a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or
- (b) to his or her counsel; or

- (c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining
orders

67s.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Penalties

67t.—(1) Every person who contravenes section 67h is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem,
use of
titles

(2) Subject to the provisions of Parts II and V, any person not licensed under this Part or Part III who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he or she is licensed or registered under this Part or is recognized by law or otherwise as a midwife, or who assumes, uses or employs the description or title "midwife" or advertises or holds himself or herself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 67t in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Health Disciplines Amendment Act, 1984*.

Bill 49

An Act to amend the Vital Statistics Act

Mr. Boudria

1st Reading April 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill removes all restrictions on the choice of the surname that a child is given at birth and eliminates references to birth within or outside marriage.

Bill 49**1984****An Act to amend the Vital Statistics Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6.—(1) Within thirty days after the day of the birth in Ontario of a child, Statement of birth

- (a) the child's parents or a person acting on their behalf, where the child is in their joint custody;
- (b) the child's mother or a person acting on her behalf, where the child is not in the parents' joint custody,

shall complete, certify and deliver or mail a statement in the prescribed form respecting the birth to the division registrar of the registration division within which the child was born.

(2) The statement referred to in subsection (1) shall show the child's surname and at least one given name. Child's name

(3) The statement referred to in subsection (1) shall not state whether the child's parents are married to each other. Contents of statement

(4) Where the statement referred to in subsection (1) was given by the child's mother or a person acting on her behalf and, Amendment of registration

- (a) the parents together make a request in the prescribed form to amend the registration by showing a different surname for the child; and
- (b) where the child is twelve years of age or older, the child consents to the request,

the Registrar General shall amend the registration accordingly.

2. Section 12 of the said Act is repealed.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Vital Statistics Amendment Act, 1984*.

Bill 50

An Act to amend the Change of Name Act

Mr. Boudria

1st Reading April 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would clarify the circumstances under which a divorced parent may change the names of the children in his or her custody without the ex-spouse's consent and would enable an unmarried parent to change the surname of the children in his or her custody to his or her own surname by a similar procedure.

Bill 50

1984

An Act to amend the Change of Name Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Change of Name Act*, being chapter 62 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

7a.—(1) An unmarried parent may make an application to change to his or her own surname the surname of any of his or her unmarried minor children of whom he or she has lawful custody.

Application
by unmarried
parent

(2) No application under subsection (1) shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name.

Consent of
other parent

2. Subsections 9 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A person's consent required under subsection 6 (3), 6 (4) or 7a (2) or under section 8 shall be obtained in writing and the person shall appear on the hearing of the application.

Consent of
other parent
or spouse

(3) Notwithstanding subsection (2), in the case of an application under section 6 or 7a, where the judge is satisfied that,

Dispensing
with consent

(a) the other parent,

(i) has not contributed to the support of, or visited or communicated with the child or children during the two year period preceding the application,

(ii) cannot be found, or

(iii) is incapable of consenting to the change of name; or

(b) the best interests of the child or children require that the other parent's consent be dispensed with,

the judge may dispense with the service of the notice of the application on the other parent and may hear the application in his or her absence and without his or her consent.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Change of Name Amendment Act, 1984*.

Bill 51

An Act to amend the Workers' Compensation Act

Mr. Haggerty

1st Reading May 1st, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to broaden the criteria used by the Workers' Compensation Board in assessing the impairment of earning capacity resulting from an injury that causes permanent disability. The Act currently states that the impairment of earning capacity shall be estimated from the nature and degree of the injury. The Board is authorized under the Act to compile a rating schedule of percentages of impairment of earning capacity for specified injuries that may be used as a guide in determining the compensation payable in permanent disability cases. The Bill repeals the provision that authorizes the Board to compile a rating schedule and directs the Board to estimate the impairment of earning capacity in light of all the circumstances of each individual case.

Bill 51

1984

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 43 (1) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 61, section 2, is repealed and the following substituted therefor:

(1) Where permanent disability results from the injury, the impairment of earning capacity of the worker shall be estimated in light of all the circumstances of the particular case, and the compensation shall be a weekly or other periodical payment during the lifetime of the worker, or such other period as the Board may fix, of a sum proportionate to the impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed.

Permanent
disability

(1a) In considering the circumstances of the case, the Board shall have particular regard to,

Consider-
ations

- (a) the extent of the physical disability;
- (b) the age of the worker;
- (c) the level of skills and education achieved by the worker;
- (d) the language spoken by the worker;
- (e) any emotional problems suffered by the worker as a result of the injury;
- (f) the state of the employment market, both generally and in the local community in which the worker resides;

- (g) the potential for the worker to rehabilitate himself through vocational rehabilitation;
- (h) any other factor that is relevant to determining the worker's ability to earn income after the accident in comparison with the worker's ability to earn income before the accident.

(2) Subsection 43 (3) of the said Act is repealed.

(3) Subsection 43 (5) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 61, section 2, is repealed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*.

Bill 52

An Act respecting the Rights of Non-Unionized Workers

Mr. Haggerty

1st Reading May 1st, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide a low cost mechanism whereby a non-unionized worker may obtain a review by the Ontario Labour Relations Board where the worker is discharged or otherwise disciplined for cause and the contract of employment is silent on matters of discipline. At the present time, a non-unionized worker who is dismissed or otherwise disciplined for cause may have no right of action against his employer notwithstanding the fact that the discipline is, having regard to all of the circumstances, unduly harsh.

The Bill provides a two stage process for reviewing complaints involving harsh discipline. Initially, a labour relations officer would be appointed to effect a settlement which would be reduced to writing and which would have to be complied with according to its terms. Then, if no settlement is reached, or where settlement is not likely, the Ontario Labour Relations Board would inquire into the matter. The Board, if satisfied that the complaint is justified, will have the power to make an order substituting such penalty as is just and reasonable in the circumstances.

Bill 52

1984

**An Act respecting
the Rights of Non-Unionized Workers**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Ontario Labour Relations Board;
- (b) "complaint" means a complaint filed with the Board under subsection 2 (1).

2.—(1) Where an employee who has been discharged or otherwise disciplined for cause by his employer is of the opinion that the penalty is unduly harsh and where the employee's contract of employment is not governed by a collective agreement under the *Labour Relations Act* and does not contain a specific penalty for the infraction for which the discharge or other discipline was imposed, the employee may file a complaint with the Board.

Complaint
to
O.L.R.B.

R.S.O. 1980,
c. 228

(2) Any regulations governing the practice and procedure of the Board apply, with necessary modifications, to a review under subsection 3 (2) and to a complaint.

Procedure

(3) The Board may authorize a labour relations officer to inquire into a complaint.

Inquiry
by labour
relations
officer

(4) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

Duties

(5) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(6) Where a labour relations officer is unable to effect a settlement of the complaint or where the Board in its discretion

Remedy

considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint and where the Board is satisfied that the discharge or other discipline imposed was unduly harsh, the Board may, by order, substitute such other penalty for the discharge or other discipline as to the Board seems just and reasonable in all the circumstances.

Idem

(7) Without limiting the generality of subsection (6),

- (a) where an employee has been discharged, the Board, in an order made under subsection (6), may order that the employee be reinstated in employment, with or without compensation or that the employee be compensated in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer;
- (b) where an employee has been suspended, the Board, in an order made under subsection (6), may order that the employee be compensated for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer.

Effect of settlement

3.—(1) Where a complaint has been settled whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed by the employer or his representative and the employee, the settlement is binding upon the employer and the employee and shall be complied with according to its terms.

Review of settlement

(2) Where either the employer or the employee alleges that the other party has breached any term of a settlement referred to in subsection (1), the employer or the employee, as the case may be, may apply to the Board for a review of the matter and the Board, after an inquiry, may order that,

- (a) the employee or employer comply with the terms of the settlement; or
- (b) vary the terms of the settlement and order compliance with the terms of the settlement as varied.

Enforcement of orders

4. Where either the employer or the employee has failed to comply with any of the terms of an order made under subsection 2 (6) or subsection 3 (2) the other party may, after the expiration of fourteen days from the date of the order or the

date provided in the order for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the order, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as such.

5. The rights conferred by this Act are in addition to any other rights that an employee may have at law but, where a complaint is filed, any action brought by the employee in a court of law related to the discharge or discipline of the employee may be stayed pending the disposition of the matter by the Board. No derogation of rights

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Non-Unionized Workers Protection Act, 1984*. Short title



Bill 53

An Act to amend the Planning Act, 1983

Mr. Spensieri

1st Reading May 1st, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would authorize municipal councils to refuse to issue permits for the demolition of buildings containing six or more dwelling units.

Bill 53

1984

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part IV of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following section:

33a.—(1) In this section, “dwelling unit” means a room Interpretation
or suite of two or more rooms designed or intended for use by one or more persons as living accommodation in which cooking and sanitary facilities are provided for the exclusive use of the person or persons.

(2) Despite section 33 of this Act or sections 34 and 44 of the *Ontario Heritage Act*, the council may refuse to issue a demolition permit for the demolition of a building containing six or more dwelling units, except a building that is, Council may refuse to issue demolition permit
R.S.O. 1980, c. 337

- (a) a tourist establishment as defined in the *Tourism Act*; R.S.O. 1980, c. 507
- (b) unsafe within the meaning of the *Building Code Act*; or R.S.O. 1980, c. 51
- (c) built to a residential density which is 50 per cent or less of the maximum residential density which the council may by by-law permit under the official plan for the municipality.

(3) Nothing in this section derogates from a council's authority to refuse to issue a demolition permit under this or any other Act where the council would be entitled to do so if this section had not been enacted. No derogation of council's power

(4) Where a council refuses to issue a demolition permit under this section or neglects to make a decision within forty-five days after the clerk of the municipality receives the application, the applicant may appeal to the Ontario Municipal Board, within thirty days from the refusal or within thirty days Appeal to O.M.B.

after the expiration of the forty-five day period, as the case may be.

Notice of appeal

(5) A person who appeals under subsection (4) shall give notice of the appeal to the persons specified and in the manner directed by the Ontario Municipal Board.

O.M.B. decision final

(6) The Ontario Municipal Board may dismiss an appeal made under subsection (4) or may direct that the demolition permit be issued, and its decision is final.

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Planning Amendment Act, 1984*.

Bill 54

An Act to amend the Public Service Superannuation Act

The Hon. G. L. Ashe
Minister of Government Services

1st Reading May 3rd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “contributor” is re-enacted to include the part-time and seasonal employees described in subclauses (ii) and (iii). Also, the definition is updated by including a reference to the Superannuation Adjustment Fund.

Subsection 2. The term “salary” is defined.

Subsection 3. The definition of the term “supplementary benefit” is complementary to the authority, set out in the Bill, to make regulations providing for supplementary benefits.

Subsection 4. New subsection 1 (4) of the Act makes the application of the Act optional for seasonal employees of the Crown.

SECTION 2. New subsection 3 (4) of the Act relates to the liability of members of the Public Service Superannuation Board.

SECTION 3. New section 7a of the Act sets out rules for computing credits for part-time and seasonal contributions.

SECTION 4. New section 7b of the Act enables designated persons to continue as contributors following release from employment by reason of shortage of work or funds or the abolition of a position or other material change in organization.

SECTION 5. Section 8 of the Act, which relates to contributions in respect of past service, is re-enacted to provide for contributions in respect of past part-time and seasonal service.

SECTION 6. Subsection 9 (1) of the Act relates to contributions to the Fund in respect of leave of absence for more than one month without salary because of illness or pregnancy.

SECTION 7. Section 21 of the Act relates to contributions by the employer on behalf of a contributor who has qualified under a long term income protection plan. The definition of “approved long term income protection plan”, in subsection 21 (1) of the Act, is expanded to include plans other than under the *Public Service Act*. Subsections 21 (2) and (3) are revised to include a reference to a special fund mentioned in subsection 10 (2) of the Act, to include a reference to a board, commission or foundation (section 28 of the Act), to correct the reference to the month to which salary is to be related in computing the amount of each contribution, and to correct the cross-reference in subsection 21 (3).

SECTION 8. Section 25 of the Act refers to “full-time registrar of deeds”. The section is re-enacted to remove the reference to “full-time” and to bring the position title up to date.

SECTION 9. New section 26a is added to the Act to include Ministerial staff within the ambit of the Act.

SECTION 10. Section 27 of the Act relates to transfers between the plan in this Act and the plan in the *Teachers' Superannuation Act*. The amendments to subsections 29 (2) and (3) of the Act, set out in the Bill, are to replace the provisions of section 27.

SECTION 11.—Subsection 1. Clause 28 (a) of the Act relates to the staff of boards, commissions or foundations. The amendment removes the reference to “full-time” staff.

Subsection 2. A complementary amendment is deemed to be made in other Acts that confer the benefit of section 28 of this Act upon full-time staff.

SECTION 12. Subsections 29 (2) and (3) of the Act relate to transfers between the Fund under this Act and other funds. The subsections are amended to provide for transfers between the Fund and the Teachers' Superannuation Fund. Subsection 29 (8) is amended to provide for agreements with the Teachers' Superannuation Commission as to transfers of contributions and credits.

SECTION 13. Subsection 34 (1) of the Act states that a sum payable out of the Fund is not subject to garnishment, attachment or seizure.

SECTION 14. Section 35 of the Act requires the deduction from amounts payable under this Act of any debt owed to the Crown by a contributor.

SECTION 15.—Subsection 1. Section 41 of the Act authorizes the making of regulations. New clause (aa) is complementary to the definition of "salary" set out in this Bill.

Subsection 2. New clause (ab) provides for supplementary benefits.

Subsection 3. Sections 28 and 29 of the Act refer to designations by the Lieutenant Governor in Council for the purpose of the application of the Act in relation to boards, commissions or foundations (section 28) and for the purposes of transfers to or from the Fund (section 29).



Bill 54**1984**

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “contributor” means,

- (i) a civil servant,
- (ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,
- (iii) a person in a class of persons to whom this Act is made applicable,
- (iv) the Provincial Auditor,
- (v) the Assistant Provincial Auditor, or
- (vi) a member of the staff of the Provincial Auditor,

but does not include,

- (vii) a person who has not yet attained the age of eighteen years, or
- (viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

Superannuation Adjustment Fund and the
Canada Pension Plan.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ga) "salary", in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:

(gb) "supplementary benefit" means a benefit in addition to the benefits provided in this Act.

(4) Section 1 of the said Act is amended by adding thereto the following subsection:

Option for
seasonal or
recurring
work
contributor

(4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Liability

(4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

3. The said Act is amended by adding thereto the following section:

Rules for
computations
re part-time
and seasonal
or recurring
work
contributor

7a. For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.
3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.
4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.
6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.
7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

4. The said Act is further amended by adding thereto the following section:

Bridging
after
release from
employment

7b.—(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

5. Section 8 of the said Act is repealed and the following substituted therefor:

Contribu-
tions in
respect of
past service

8.—(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. The contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

4. Where the principal and interest are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed,

Computation
of principal
amount

- (a) where the credit to be obtained is in respect of service continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or
- (b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the most recent occasion on which he became a contributor, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after

the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given.

Idem

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

6. Subsection 9 (1) of the said Act is amended by striking out "illness or pregnancy" in the second and third lines and inserting in lieu thereof "illness, pregnancy or adoption of a child".

7. Section 21 of the said Act is repealed and the following substituted therefor:

Long term income protection plan R.S.O. 1980, c. 418

21.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid to the contributor in the month in which the contributor qualified for the benefit. Amount

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit. Receipt of benefit

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service. Contributory service

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor. Qualified as contributor

8. Section 25 of the said Act is repealed and the following substituted therefor:

25. This Act applies to every land registrar. Land registrars

9. The said Act is further amended by adding thereto the following section:

26a. This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council. Application of Act to Minister's staff

10. Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

11.—(1) Clause 28 (a) of the said Act is amended by striking out "full-time" in the first line.

(2) Section 28 of the said Act is amended by adding thereto the following subsection:

(2) A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under other Acts

12.—(1) Subsection 29 (2) of the said Act is amended,

(a) by adding thereto the following clause:

1983, c. 84

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*;

(b) by inserting after "clergy" in the thirty-fifth line "or into the Teachers' Superannuation Fund".

(2) Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*.

(3) Subsection 29 (8) of the said Act is amended by inserting after "therein" in the sixth line "or with the Teachers' Superannuation Commission under the *Teachers' Superannuation Act, 1983*".

13. Section 34 of the said Act is amended by adding thereto the following subsections:

Application
of subs. (1)

(3) Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario.

Notice of
enforcement

(4) Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order.

14. Section 35 of the said Act is repealed.

15.—(1) Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

(2) The said section 41 is further amended by adding thereto the following clause:

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

(3) The said section 41 is further amended by adding thereto the following clauses:

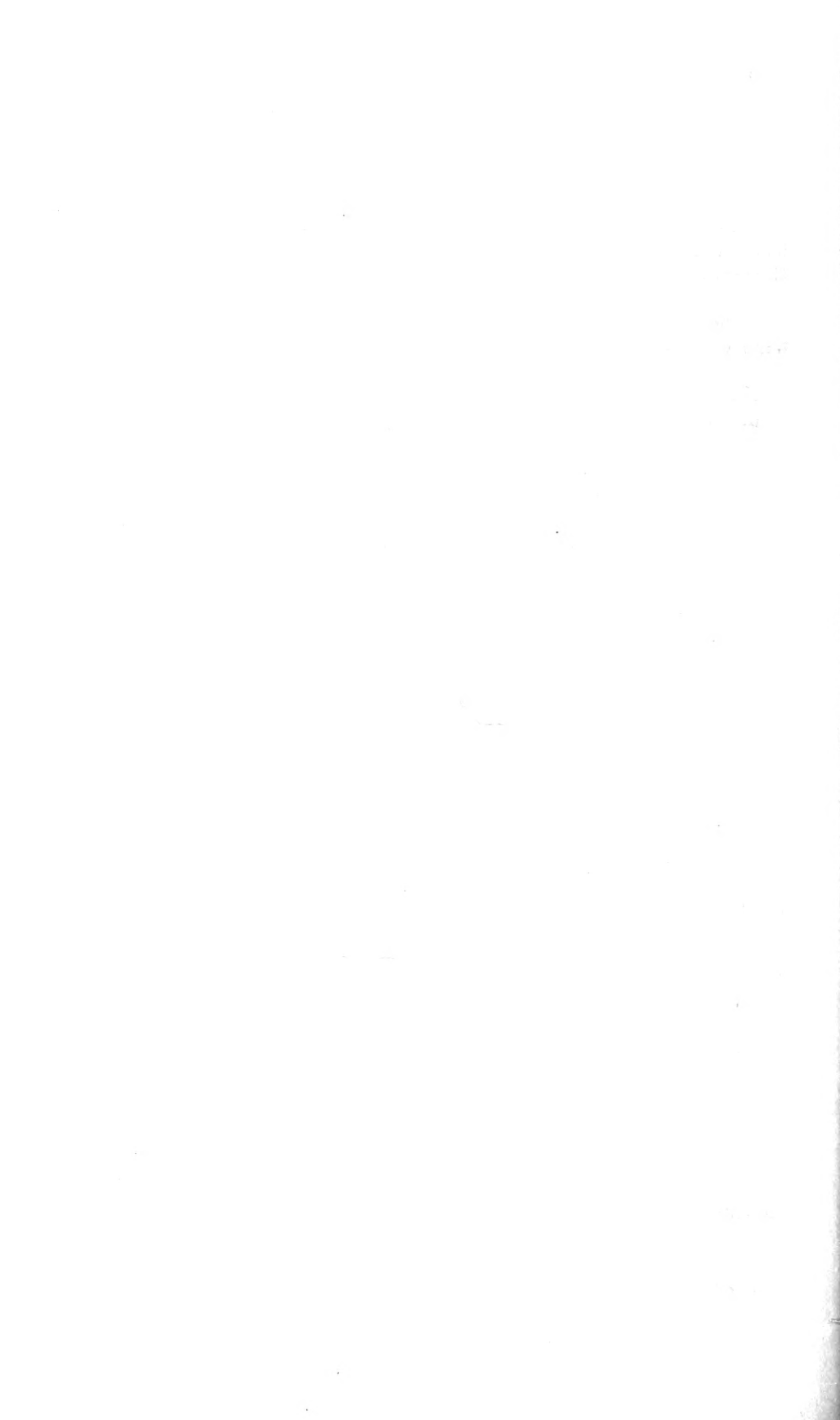
(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

(ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

16.—(1) This Act, except sections 10 and 12, comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Sections 10 and 12 come into force on the 1st day of September, 1984. Idem

17. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984.* Short title



BIB 54

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Bill 54

An Act to amend the Public Service Superannuation Act

The Hon. G. L. Ashe
Minister of Government Services

1st Reading May 3rd, 1984
2nd Reading May 25th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “contributor” is re-enacted to include the part-time and seasonal employees described in subclauses (ii) and (iii). Also, the definition is updated by including a reference to the Superannuation Adjustment Fund.

Subsection 2. The term “salary” is defined.

Subsection 3. The definition of the term “supplementary benefit” is complementary to the authority, set out in the Bill, to make regulations providing for supplementary benefits.

Subsection 4. New subsection 1 (4) of the Act makes the application of the Act optional for seasonal employees of the Crown.

SECTION 2. New subsection 3 (4) of the Act relates to the liability of members of the Public Service Superannuation Board.

SECTION 3. New section 7a of the Act sets out rules for computing credits for part-time and seasonal contributions.

SECTION 4. New section 7b of the Act enables designated persons to continue as contributors following release from employment by reason of shortage of work or funds or the abolition of a position or other material change in organization.

SECTION 5. Section 8 of the Act, which relates to contributions in respect of past service, is re-enacted to provide for contributions in respect of past part-time and seasonal service.

SECTION 6. Subsection 9 (1) of the Act relates to contributions to the Fund in respect of leave of absence for more than one month without salary because of illness or pregnancy.

SECTION 7.—Subsection 1. New subsection 14 (8a) of the Act extends the guarantee set out in subsection 14 (8) to those persons who are able to establish a service credit date of December 31st, 1965 or earlier.

Subsection 2. Subsection 14 (9) of the Act is amended to refer to new subsection 14 (8a).

Subsection 3. The subsection states the rule that new subsection 14 (8a) of the Act applies only in respect of a person who is or who becomes a contributor on or after the date subsection 7 (1) of the Bill comes into force.

SECTION 8. New section 20a is added to the Act to enable a person who is a contributor or a person who is entitled to a deferred annuity to direct the Board to increase the survivor allowance related to the person's allowance or deferred annuity. The allowance or deferred annuity will be actuarially reduced to allow for the increase in the survivor allowance.

SECTION 9. Section 21 of the Act relates to contributions by the employer on behalf of a contributor who has qualified under a long term income protection plan. The definition of “approved long term income protection plan”, in subsection 21 (1) of the Act, is expanded to include plans other than under the *Public Service Act*. Subsections 21 (2) and (3) are revised to include a reference to a special fund mentioned in subsection 10 (2) of the Act, to include a reference to a board, commission or foundation (section 28 of the Act), to correct the reference to the month to which salary is to be related in computing the amount of each contribution, and to correct the cross-reference in subsection 21 (3).

SECTION 10. Section 25 of the Act refers to "full-time registrar of deeds". The section is re-enacted to remove the reference to "full-time" and to bring the position title up to date.

SECTION 11. New section 26a is added to the Act to include Ministerial staff within the ambit of the Act.

SECTION 12. Section 27 of the Act relates to transfers between the plan in this Act and the plan in the *Teachers' Superannuation Act*. The amendments to subsections 29 (2) and (3) of the Act, set out in the Bill, are to replace the provisions of section 27.

SECTION 13.—Subsection 1. Clause 28 (a) of the Act relates to the staff of boards, commissions or foundations. The amendment removes the reference to "full-time" staff.

Subsection 2. A complementary amendment is deemed to be made in other Acts that confer the benefit of section 28 of this Act upon full-time staff.

SECTION 14. Subsections 29 (2) and (3) of the Act relate to transfers between the Fund under this Act and other funds. The subsections are amended to provide for transfers between the Fund and the Teachers' Superannuation Fund. Subsection 29 (8) is amended to provide for agreements with the Teachers' Superannuation Commission as to transfers of contributions and credits.

SECTION 15. Subsection 34 (1) of the Act states that a sum payable out of the Fund is not subject to garnishment, attachment or seizure.

SECTION 16. Section 35 of the Act requires the deduction from amounts payable under this Act of any debt owed to the Crown by a contributor.

SECTION 17.—Subsection 1. Section 41 of the Act authorizes the making of regulations. New clause (aa) is complementary to the definition of "salary" set out in this Bill.

Subsection 2. New clause (ab) provides for supplementary benefits.

Subsection 3. Sections 28 and 29 of the Act refer to designations by the Lieutenant Governor in Council for the purpose of the application of the Act in relation to boards, commissions or foundations (section 28) and for the purposes of transfers to or from the Fund (section 29).



Bill 54

1984

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “contributor” means,

- (i) a civil servant,
- (ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,
- (iii) a person in a class of persons to whom this Act is made applicable,
- (iv) the Provincial Auditor,
- (v) the Assistant Provincial Auditor, or
- (vi) a member of the staff of the Provincial Auditor,

but does not include,

- (vii) a person who has not yet attained the age of eighteen years, or
- (viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

Superannuation Adjustment Fund and the
Canada Pension Plan.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ga) "salary", in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:

(gb) "supplementary benefit" means a benefit in addition to the benefits provided in this Act.

(4) Section 1 of the said Act is amended by adding thereto the following subsection:

Option for
seasonal or
recurring
work
contributor

(4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Liability

(4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

3. The said Act is amended by adding thereto the following section:

Rules for
computations
re part-time
and seasonal
or recurring
work
contributor

7a. For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.
3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.
4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.
6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.
7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

4. The said Act is further amended by adding thereto the following section:

Bridging
after
release from
employment

7b.—(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

5. Section 8 of the said Act is repealed and the following substituted therefor:

Contribu-
tions in
respect of
past service

8.—(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. Where the amount for principal is computed under subclause (2) (a) (i) (continuous service, notice within one year) or under subsection (3) (current contributor, notice within one year), the contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of

commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

4. Where the principal or interest or both are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed,

Computation
of principal
amount

- (a) where the credit to be obtained is in respect of service continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or
- (b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor, on the basis of the contributor's salary on the date the notice is given.

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in

Idem

order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

6.—(1) Subsection 9 (1) of the said Act is amended by striking out “illness or pregnancy” in the second and third lines and inserting in lieu thereof “illness, pregnancy or adoption of a child”.

(2) Section 9 of the said Act is amended by adding thereto the following subsection:

Interpretation

(5) For the purpose of subsection (1), leave of absence because of pregnancy or adoption of a child includes all leave or leaves of absence in respect of the birth or adoption of the child.

7.—(1) Section 14 of the said Act is amended by adding thereto the following subsection:

Extension of guarantee

(8a) Subject to subsection (9), a person who is credited for the purposes of this Act with service that when added to the person's credit for service in the Fund establishes a date of commencement of service that is on or before the 31st day of December, 1965 shall, if he becomes entitled to an allowance or an annuity, receive an annual allowance or an annuity equal to that which he would have received if it had been computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965.

R.S.O. 1960, c. 332

(2) Subsection 14 (9) of the said Act is amended by inserting after “subsection (8)” in the first line and in the eleventh line “or (8a)”.

(3) Subsection 14 (8a) of the said Act, as enacted by subsection (1), applies only in respect of a person who is or who becomes a contributor on or after the date subsection (1) comes into force.

8. The said Act is further amended by adding thereto the following section:

20a.—(1) A person who is a contributor or who is entitled to a deferred annuity under this Act may direct the Board to increase the amount of the survivor allowance related to the allowance or annuity to which the person will be entitled or related to the deferred annuity to 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity or deferred annuity and to reduce the amount of the allowance or annuity or deferred annuity accordingly.

Increase of survivor allowance

(2) A direction mentioned in subsection (1) must be in writing and must be delivered to the Board two years or more before the person commences to receive an allowance or an annuity or deferred annuity under this Act.

Time limit

(3) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board less than two years before the person commences to receive an allowance or an annuity or deferred annuity under this Act, if the Board is satisfied that the person is in good health having regard to the person's age.


Exception

(4) Where a direction mentioned in subsection (1) is delivered in accordance with subsection (2) or accepted in accordance with subsection (3), the amount of the allowance or annuity or deferred annuity payable to the person shall be actuarially reduced in a manner approved by the Board to allow for the survivor allowance in accordance with the direction, and the amount of the survivor allowance related to the allowance or annuity or deferred annuity shall be increased in accordance with the direction.

Actuarial reduction of allowance

(5) A direction mentioned in subsection (1) is not valid if the person who gives the direction dies before applying for an allowance or annuity or deferred annuity under this Act.

When direction not valid

(6) A person who gives a direction mentioned in subsection (1) may revoke the direction by a written revocation delivered to the Board before the date of commencement of the person's allowance or annuity or deferred annuity. 

Revocation of direction

2. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Long term income protection plan R.S.O. 1980, c. 418

Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.

Amount

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid from time to time to a person in the same or a comparable position to that in which the contributor was employed in the month in which the contributor qualified for the benefit.

Receipt of benefit

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit.

Contributory service

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service.

Qualified as contributor

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor.

10. Section 25 of the said Act is repealed and the following substituted therefor:

Land registrars

25. This Act applies to every land registrar.

11. The said Act is further amended by adding thereto the following section:

Application of Act to Minister's staff

26a. This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council.

12. Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

13.—(1) Clause 28 (a) of the said Act is amended by striking out “full-time” in the first line.

(2) Section 28 of the said Act is amended by adding thereto the following subsection:

(2) A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under other Acts

14.—(1) Subsection 29 (2) of the said Act is amended,

(a) by adding thereto the following clause:

(fa) the pension plan in the *Teachers’ Superannuation Act, 1983*; 1983, c. 84

(b) by inserting after “clergy” in the thirty-fifth line “or into the Teachers’ Superannuation Fund”.

(2) Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

(fa) the pension plan in the *Teachers’ Superannuation Act, 1983*.

(3) Subsection 29 (8) of the said Act is amended by inserting after “therein” in the sixth line “or with the Teachers’ Superannuation Commission under the *Teachers’ Superannuation Act, 1983*”.

15. Section 34 of the said Act is amended by adding thereto the following subsections:

(3) Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario. Application of subs. (1)

(4) Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order. Notice of enforcement

16. Section 35 of the said Act is repealed.

17.—(1) Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

(2) The said section 41 is further amended by adding thereto the following clause:

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

(3) The said section 41 is further amended by adding thereto the following clauses:

(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

(ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

Commence-
ment

18.—(1) This Act, except sections 12 and 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Sections 12 and 14 come into force on the 1st day of September, 1984.

Short title

19. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984*.





Bill 54

*(Chapter 22
Statutes of Ontario, 1984)*

An Act to amend the Public Service Superannuation Act

The Hon. G. L. Ashe
Minister of Government Services

<i>1st Reading</i>	May 3rd, 1984
<i>2nd Reading</i>	May 25th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 54**1984**

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “contributor” means,

- (i) a civil servant,
- (ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,
- (iii) a person in a class of persons to whom this Act is made applicable,
- (iv) the Provincial Auditor,
- (v) the Assistant Provincial Auditor, or
- (vi) a member of the staff of the Provincial Auditor,

but does not include,

- (vii) a person who has not yet attained the age of eighteen years, or
- (viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

Superannuation Adjustment Fund and the Canada Pension Plan.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ga) "salary", in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:

(gb) "supplementary benefit" means a benefit in addition to the benefits provided in this Act.

(4) Section 1 of the said Act is amended by adding thereto the following subsection:

Option for seasonal or recurring work contributor

(4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Liability

(4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

3. The said Act is amended by adding thereto the following section:

Rules for computations re part-time and seasonal or recurring work contributor

7a. For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

- 1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.

3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.

4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.

6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.

7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

4. The said Act is further amended by adding thereto the following section:

Bridging
after
release from
employment

7b.—(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

5. Section 8 of the said Act is repealed and the following substituted therefor:

Contributions in
respect of
past service

8.—(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. Where the amount for principal is computed under subclause (2) (a) (i) (continuous service, notice within one year) or under subsection (3) (current contributor, notice within one year), the contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of

commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

4. Where the principal or interest or both are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed,

Computation
of principal
amount

- (a) where the credit to be obtained is in respect of service continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or
- (b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor, on the basis of the contributor's salary on the date the notice is given.

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in

Idem

order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

6.—(1) Subsection 9 (1) of the said Act is amended by striking out “illness or pregnancy” in the second and third lines and inserting in lieu thereof “illness, pregnancy or adoption of a child”.

(2) Section 9 of the said Act is amended by adding thereto the following subsection:

Interpretation

(5) For the purpose of subsection (1), leave of absence because of pregnancy or adoption of a child includes all leave or leaves of absence in respect of the birth or adoption of the child.

7.—(1) Section 14 of the said Act is amended by adding thereto the following subsection:

Extension of guarantee

(8a) Subject to subsection (9), a person who is credited for the purposes of this Act with service that when added to the person's credit for service in the Fund establishes a date of commencement of service that is on or before the 31st day of December, 1965 shall, if he becomes entitled to an allowance or an annuity, receive an annual allowance or an annuity equal to that which he would have received if it had been computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965.

R.S.O. 1960, c. 332

(2) Subsection 14 (9) of the said Act is amended by inserting after “subsection (8)” in the first line and in the eleventh line “or (8a)”.

(3) Subsection 14 (8a) of the said Act, as enacted by subsection (1), applies only in respect of a person who is or who becomes a contributor on or after the date subsection (1) comes into force.

8. The said Act is further amended by adding thereto the following section:

20a.—(1) A person who is a contributor or who is entitled to a deferred annuity under this Act may direct the Board to increase the amount of the survivor allowance related to the allowance or annuity to which the person will be entitled or related to the deferred annuity to 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity or deferred annuity and to reduce the amount of the allowance or annuity or deferred annuity accordingly.

Increase of
survivor
allowance

(2) A direction mentioned in subsection (1) must be in writing and must be delivered to the Board two years or more before the person commences to receive an allowance or an annuity or deferred annuity under this Act.

Time limit

(3) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board less than two years before the person commences to receive an allowance or an annuity or deferred annuity under this Act, if the Board is satisfied that the person is in good health having regard to the person's age.

Exception

(4) Where a direction mentioned in subsection (1) is delivered in accordance with subsection (2) or accepted in accordance with subsection (3), the amount of the allowance or annuity or deferred annuity payable to the person shall be actuarially reduced in a manner approved by the Board to allow for the survivor allowance in accordance with the direction, and the amount of the survivor allowance related to the allowance or annuity or deferred annuity shall be increased in accordance with the direction.

Actuarial
reduction of
allowance

(5) A direction mentioned in subsection (1) is not valid if the person who gives the direction dies before applying for an allowance or annuity or deferred annuity under this Act.

When
direction
not valid

(6) A person who gives a direction mentioned in subsection (1) may revoke the direction by a written revocation delivered to the Board before the date of commencement of the person's allowance or annuity or deferred annuity.

Revocation
of direction

9. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) In this section, “approved long term income protection plan” means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Long term
income pro-
tection plan
R.S.O. 1980,
c. 418

Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.

Amount

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid from time to time to a person in the same or a comparable position to that in which the contributor was employed in the month in which the contributor qualified for the benefit.

Receipt of benefit

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit.

Contributory service

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service.

Qualified as contributor

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor.

10. Section 25 of the said Act is repealed and the following substituted therefor:

Land registrars

25. This Act applies to every land registrar.

11. The said Act is further amended by adding thereto the following section:

Application of Act to Minister's staff

26a. This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council.

12. Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

13.—(1) Clause 28 (a) of the said Act is amended by striking out “full-time” in the first line.

(2) Section 28 of the said Act is amended by adding thereto the following subsection:

(2) A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under other Acts

14.—(1) Subsection 29 (2) of the said Act is amended,

(a) by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*; 1983, c. 84

(b) by inserting after “clergy” in the thirty-fifth line “or into the Teachers' Superannuation Fund”.

(2) Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*.

(3) Subsection 29 (8) of the said Act is amended by inserting after “therein” in the sixth line “or with the Teachers' Superannuation Commission under the *Teachers' Superannuation Act, 1983*”.

15. Section 34 of the said Act is amended by adding thereto the following subsections:

(3) Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario. Application of subs. (1)

(4) Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order. Notice of enforcement

16. Section 35 of the said Act is repealed.

17.—(1) Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

(2) The said section 41 is further amended by adding thereto the following clause:

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

(3) The said section 41 is further amended by adding thereto the following clauses:

(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

(ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

Commence-
ment

18.—(1) This Act, except sections 12 and 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Sections 12 and 14 come into force on the 1st day of September, 1984.

Short title

19. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984*.

Bill 55

An Act respecting Advertising by Governmental Organizations

Mr. Foulds

1st Reading May 4th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to control the type of advertising placed by the Government of Ontario in broadcasting and print media. The Bill prohibits the placement of advertisements by the Government of Ontario that have the effect of promoting directly or indirectly the political party to which the members of the Executive Council belong. The Bill authorizes the Commission on Election Contributions and Expenses to receive and inquire into complaints concerning government advertising. If the Commission determines that a government advertisement does directly or indirectly promote the political party to which the members of the Executive Council belong, the Government of Ontario must immediately withdraw the advertisement from further use.

Bill 55

1984

An Act respecting Advertising by Governmental Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Commission" means the Commission on Election Contributions and Expenses established under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

(b) "governmental organization" means a ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof.

2. No governmental organization shall,

Political
advertising
by
government
prohibited

(a) advertise on the facilities of any broadcasting undertaking; or

(b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

if the effect of the advertisement is to promote directly or indirectly the political party to which the members of the Executive Council belong.

3.—(1) An advertisement placed by a governmental organization promotes the political party to which the members of the Executive Council belong if,

Prohibited
government
advertising

(a) the advertisement contains a logo, slogan, motto or name that is similar to or likely to be identified with a logo, slogan, motto or name of the political party;

- (b) the advertisement features a photograph or voice recording of a member of the Executive Council; or
- (c) the advertisement contravenes guidelines on government advertising established by the Commission.

Guidelines

(2) The Commission shall, within one year after the day on which this Act comes into force, establish guidelines for governmental organizations to assist such organizations in complying with section 2 when placing government advertisements.

Complaint

4.—(1) Where a person believes that a government advertisement contravenes section 2, the person may file a complaint in writing with the Commission concerning the advertisement.

Report

(2) The Commission shall inquire into every complaint and shall make a report within twenty-one days after the complaint was filed to the Speaker of the Assembly or, if the Assembly is dissolved, to the Chief Election Officer indicating whether or not, in the opinion of the Commission, the government advertisement promotes directly or indirectly the political party to which the members of the Executive Council belong.

Withdrawal of advertisement

(3) Where the Commission determines that a government advertisement contravenes section 2, the governmental organization that placed the advertisement shall immediately cease to broadcast or publish the advertisement and, where possible, shall withdraw the advertisement from existing uses.

Public examination of report

(4) Upon receipt of the Commission's report, the Speaker or the Chief Election Officer, as the case may be, shall provide a copy of the report to the person who filed the complaint, shall make the report available for public examination and shall cause the report to be tabled in the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Government Advertising Control Act, 1984*.

Bill 56

An Act to amend the Election Finances Reform Act

Mr. Foulds

1st Reading May 4th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prohibit advertising by the Government of Ontario during a provincial election campaign. The Bill contains exemptions from the general prohibition for advertising related to the administration of the election and advertising required for emergency purposes.

Bill 56

1984

An Act to amend the Election Finances Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Election Finances Reform Act*, being chapter 134 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

38a.—(1) The Government of Ontario shall not, during the period between the day the writ for an election is issued and polling day,

Limitation
on
government
advertising

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for any purpose.

(2) Subsection (1) does not apply,

Exceptions

- (a) to any advertisement respecting the enumeration and revision of lists of voters or respecting any other matter in relation to the administration of the election; and
- (b) to any advertisement required for emergency purpose, the subject-matter of which is approved before the advertisement is broadcast or published by the leader of each political party represented in the Assembly at the time the writ for the election was issued.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Election Finances Reform Amendment Act, 1984.*

Bill 57

An Act to amend the Legislative Assembly Retirement Allowances Act

The Hon. T. L. Wells
Minister of Intergovernmental Affairs

1st Reading May 7th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 11 of the Act (in Part I) provides for spouse's allowances. The section is re-enacted to provide benefits similar to those provided by section 19 in Part II of the Act. Provision is also made for an allowance to the child or children of a former member who dies while receiving an allowance but is not survived by a spouse.

Section 4 of the Act states that Part I applies to a person who was a member of the Assembly on the 1st day of October, 1973 and a person who was a member before such date, but does not apply to a member who has elected to contribute under Part II.

The re-enacted section 11 is deemed to have come into force on the 12th day of July, 1977, the day that a similar amendment to section 19 (in Part II of the Act) came into force.

SECTION 2. Clause 14 (a) of the Act (in Part II) defines "average annual remuneration". Subclause (ii) of the definition is amended to refer to thirty-six months instead of three fiscal years as the basis for calculations.

SECTION 3.—Subsection 1. Subsections 18 (1) and (2) of the Act (in Part II) provide for an allowance or a deferred allowance upon compliance with the sixty year rule (in the case of a person who ceased to be a member before the 1st day of October, 1977) or the fifty-five year rule (in the case of a person who ceased to be a member on or after that date). Subsection 18 (4) of the Act deals with computation of the deferred allowance but refers only to the sixty year rule. The amendment adds the reference to the fifty-five year rule.

Subsection 2. Subsection 18 (5) of the Act relates to section 23 of the Act (in Part III) under which a former member of the House of Commons of Canada who becomes a contributor under the Act could pay into the Legislative Assembly Retirement Allowances Account in respect of the refund received for contributions related to the House of Commons superannuation plan and receive credit for the period of service represented by the amount paid.

Such a person could qualify for an allowance under subsection 18 (1) or a deferred allowance under subsection 18 (2) with less than thirty-six months of service as a member for the purpose of calculating average annual remuneration. The re-enacted subsection 18 (5) deals with such a situation.

SECTION 4.—Subsection 1. Subsection (1a) is added to section 19 (in Part II) of the Act to provide for an allowance to the child or children of a former member who dies while receiving an allowance but who is not survived by a spouse.

Subsection 2. Section 18 of the Act provides for an allowance to a person who satisfies either the sixty year rule (in the case of a person who ceased to be a member before the 1st day of October, 1977) or the fifty-five year rule (in the case of a person who ceased or who ceases to be a member on or after the 1st day of October, 1977). Subsection 19 (3) of the Act, in dealing with a spouse's allowance, refers to the sixty year rule but not the fifty-five year rule. The amendments correct this omission.

SECTION 5. Clause 32 (b) of the Act provides for prescribing tables by regulation. The amendment is complementary to the re-enactment of section 11.

Bill 57

1984

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 11 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

11.—(1) Where a former member who is receiving an allowance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to, Spouse's allowance

- (a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and
- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.

(2) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained. Children's allowance

(3) Where a member dies, Computation of allowance

- (a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,

(i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or

(ii) an amount equal to,

A. 60 per cent of the allowance that the member had earned to the date of his or her death, and

B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 6 or 9, as the case may be, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to or for the child or children until such age is attained; or

(b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to or for the child or children until such age is attained.

Option

(4) The spouse,

(a) of a person who had elected under section 6 or 9 to take a deferred allowance at age fifty-five but who died before attaining such age; or

(b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 6 or 9 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

(c) 60 per cent of the allowance to which the person would have been entitled at that time; and

(d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

(5) Where a person referred to in clause (4) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (4), reduced actuarially in accordance with the tables prescribed by the regulations for the purposes of subsection (4), shall be paid to or for the child or children until such age is attained. Idem

(6) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. Exception for higher education

(2) Section 11 of the said Act, as re-enacted by subsection (1) of this section, applies in respect of every allowance payable under Part I of the said Act on or after the date on which this section is deemed to have come into force. Application of s. 11

2.—(1) Subclause 14 (a) (ii) of the said Act is amended,

(a) by striking out "three fiscal years" in the fifth line and inserting in lieu thereof "thirty-six months"; and

(b) by striking out "years" where it occurs the second time in the fifth line and inserting in lieu thereof "months".

(2) Subclause 14 (a) (ii) of the said Act, as amended by subsection (1) of this section, does not apply in respect of a person who became or who becomes entitled to an allowance under the said Act before the day this section comes into force. Application of subclause as amended

3.—(1) Subsection 18 (4) of the said Act is amended by inserting after “rule” in the third line “or the fifty-five year rule, as the case requires”.

(2) Subsection 18 (5) of the said Act is repealed and the following substituted therefor:

Where
service
less than
thirty-six
months

(5) Where a person who is entitled to an allowance has been a contributor to the Legislative Assembly Retirement Allowances Account for less than thirty-six months, the allowance shall be based upon the person’s average annual remuneration during the months that the person was a contributor to the Account.

4.—(1) Section 19 of the said Act is amended by adding thereto the following subsection:

Children’s
allowance

(1a) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained.

(2) Subsection 19 (3) of the said Act is amended by inserting after “rule” in the fourth line and in the eleventh line “or the fifty-five year rule, as the case requires”.

5. Clause 32 (b) of the said Act is amended by inserting after “subsection 9 (4)” in the second line “section 11”.

Commence-
ment

6.—(1) This Act, except sections 1 and 4, shall be deemed to have come into force on the 1st day of April, 1981.

Idem

(2) Sections 1 and 4 shall be deemed to have come into force on the 12th day of July, 1977.

Short title

7. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1984*.



Bill 57

*(Chapter 17
Statutes of Ontario, 1984)*

An Act to amend the Legislative Assembly Retirement Allowances Act

The Hon. T. L. Wells
Minister of Intergovernmental Affairs

<i>1st Reading</i>	May 7th, 1984
<i>2nd Reading</i>	May 25th, 1984
<i>3rd Reading</i>	May 29th, 1984
<i>Royal Assent</i>	May 29th, 1984

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Bill 57

1984

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 11 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

11.—(1) Where a former member who is receiving an allowance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to,

Spouse's
allowance

- (a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and
- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.

(2) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained.

Children's
allowance

(3) Where a member dies,

Computation
of allowance

- (a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,

(i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or

(ii) an amount equal to,

A. 60 per cent of the allowance that the member had earned to the date of his or her death, and

B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 6 or 9, as the case may be, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to or for the child or children until such age is attained; or

(b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to or for the child or children until such age is attained.

Option

(4) The spouse,

(a) of a person who had elected under section 6 or 9 to take a deferred allowance at age fifty-five but who died before attaining such age; or

(b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 6 or 9 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

(c) 60 per cent of the allowance to which the person would have been entitled at that time; and

(d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

(5) Where a person referred to in clause (4) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (4), reduced actuarially in accordance with the tables prescribed by the regulations for the purposes of subsection (4), shall be paid to or for the child or children until such age is attained. Idem

(6) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. Exception for higher education

(2) Section 11 of the said Act, as re-enacted by subsection (1) of this section, applies in respect of every allowance payable under Part I of the said Act on or after the date on which this section is deemed to have come into force. Application of s. 11

2.—(1) Subclause 14 (a) (ii) of the said Act is amended,

- (a) by striking out "three fiscal years" in the fifth line and inserting in lieu thereof "thirty-six months"; and
- (b) by striking out "years" where it occurs the second time in the fifth line and inserting in lieu thereof "months".

(2) Subclause 14 (a) (ii) of the said Act, as amended by subsection (1) of this section, does not apply in respect of a person who became or who becomes entitled to an allowance under the said Act before the day this section comes into force. Application of subclause as amended

3.—(1) Subsection 18 (4) of the said Act is amended by inserting after “rule” in the third line “or the fifty-five year rule, as the case requires”.

(2) Subsection 18 (5) of the said Act is repealed and the following substituted therefor:

Where
service
less than
thirty-six
months

(5) Where a person who is entitled to an allowance has been a contributor to the Legislative Assembly Retirement Allowances Account for less than thirty-six months, the allowance shall be based upon the person’s average annual remuneration during the months that the person was a contributor to the Account.

4.—(1) Section 19 of the said Act is amended by adding thereto the following subsection:

Children’s
allowance

(1a) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained.

(2) Subsection 19 (3) of the said Act is amended by inserting after “rule” in the fourth line and in the eleventh line “or the fifty-five year rule, as the case requires”.

5. Clause 32 (b) of the said Act is amended by inserting after “subsection 9 (4)” in the second line “section 11”.

Commence-
ment

6.—(1) This Act, except sections 1 and 4, shall be deemed to have come into force on the 1st day of April, 1981.

Idem

(2) Sections 1 and 4 shall be deemed to have come into force on the 12th day of July, 1977.

Short title

7. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1984*.

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Bill 58

An Act to amend certain Acts related to Payments in Lieu of Taxes to Municipalities

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purposes of the Bill are as follows:

1. To amend the *Municipal Tax Assistance Act*,
 - i. to provide that municipalities will be eligible to receive payments in lieu of taxes under that Act with respect to provincial parks and agricultural research stations. At present, such payments are provided for under subsection 160 (7) of the *Municipal Act* and the *Provincial Parks Municipal Tax Assistance Act*, and
 - ii. to change references to the Ministry to read as references to the Minister of Municipal Affairs and Housing.
2. To amend the *Provincial Parks Act* to provide that lands in a provincial park will be considered to be part of the municipality in which the park or a part thereof is situate for purposes of the *Municipal Tax Assistance Act*. The amendment is complementary to the repeal of the *Provincial Parks Municipal Tax Assistance Act*.
3. To amend the *Niagara Parks Act*, the *St. Clair Parkway Commission Act* and the *St. Lawrence Parks Commission Act* to provide for payments in lieu of taxes with respect to parks established under those Acts. At present, such payments are made under the *Provincial Parks Municipal Tax Assistance Act*.
4. To make amendments complementary to the amendments referred to in paragraphs 1 and 3 above to the Acts named in sections 6 to 18 of the Bill.
5. To repeal the *Provincial Parks Municipal Tax Assistance Act*.

Bill 58**1984****An Act to amend certain Acts related to
Payments in Lieu of Taxes to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Municipal Tax Assistance Act*, being chapter 311 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “Minister” means the Minister of Municipal Affairs and Housing.

(2) Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) This Act does not apply to unpatented lands, parks operated under the *Niagara Parks Act*, the *St. Clair Parkway Commission Act* or the *St. Lawrence Parks Commission Act*, hospitals, penal institutions, educational institutions, museums, libraries, highways, correctional institutions, cemeteries, minerals, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property that is subject to municipal taxation under section 17 of the *Assessment Act*.

Non-appli-
cation
R.S.O. 1980,
cc. 317, 485,
486, 31

(2) The Minister may decide as to whether this Act applies to any provincial property and the Minister’s decision is final.

Minister’s
decision

(3) Section 4 of the said Act is amended by striking out “Ministry” where it occurs in subsections (1), (3) and (5) and inserting in lieu thereof in each instance “Minister” and by adding thereto the following subsections:

(9) For the purposes of this section, in the year 1984, the Minister of Revenue shall provide the Minister with an estimated assessed value of each agricultural research station, provincial park, historical park and wilderness area or the part of any such station, park or area within each municipality, and

Estimated
assessed
value

such values shall be used as the assessed value of the property for the purposes of payments to be made for the year 1984.

Minimum payable re agricultural stations and provincial parks

(10) Notwithstanding any other provision of this Act, the minimum amount payable under subsections (1) and (2) to a municipality in respect of agricultural research stations, provincial parks, historical parks and wilderness areas situate in the municipality shall be an amount equal to the amount the municipality was entitled to receive in 1983 under subsection 160 (7) of the *Municipal Act* and section 4 of the *Provincial Parks Municipal Tax Assistance Act* as those provisions read on the 31st day of December, 1983.

R.S.O. 1980, cc. 302, 402

Municipal assessment deemed increased

(11) For the purposes of any general or special Act, the equalized assessment of a municipality that receives a payment under subsection (10) shall be deemed for apportionment purposes, other than for school purposes or for county purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Exclusion of certain taxes

(12) In determining the taxes levied on commercial and industrial assessment under subsection (11), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

R.S.O. 1980, c. 31

(4) Section 5 of the said Act is repealed and the following substituted therefor:

Payment by Minister

5. The Minister may make a payment under this Act on behalf of any ministry or Crown agency and the payment may be recovered from the ministry or Crown agency on whose behalf the payment was made.

2. Section 3 of the *Provincial Parks Act*, being chapter 401 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Tax assistance, assessment R.S.O. 1980, c. 111

(7) Notwithstanding subsection (5), for the purposes of the *Municipal Tax Assistance Act*, any land set apart as a provincial park or added thereto shall be deemed not to be separated from the municipality of which it formed a part immediately before it became a provincial park or a part thereof.

3. The *Niagara Parks Act*, being chapter 317 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

Payments
in lieu
of taxes

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

Determi-
nations

(a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and

(b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

(3) For the purposes of the *Regional Municipality of Hamilton-Wentworth Act* and the *Regional Municipality of Niagara Act*, the equalized assessment of an area municipality that receives a payment under this Act shall be deemed for apportionment purposes, other than for school purposes, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Municipal
assessment
deemed
increased
R.S.O. 1980,
cc. 437, 438

(4) In determining the taxes levied on commercial and industrial assessment under subsection (3), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

Exclusion
of certain
taxes

R.S.O. 1980,
c. 31

4. The *St. Clair Parkway Commission Act*, being chapter 485 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

Determi-
nations

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

(a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and

(b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

5. The *St. Lawrence Parks Commission Act*, being chapter 486 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

12a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually, Determinations

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

6. Subsection 97 (10) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

7. Subsection 79 (10) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

8. Subsection 90 (10) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

9. Subsection 101 (10) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines and inserting in lieu thereof "section 14a of the *Niagara Parks Act*".

10. Subsection 121 (11) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

11. Subsection 85 (10) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the

Provincial Parks Municipal Tax Assistance Act” in the tenth and eleventh lines.

12. Subsection 71 (11) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

13. Subsection 118 (11) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

14. Subsection 74 (10) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

15. Subsection 86 (10) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

16. Clause 3 (2) (b) of the *County of Haliburton Act, 1982*, being chapter 57, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*” in the first and second lines and inserting in lieu thereof “*Municipal Tax Assistance Act*”.

17. The Schedule to the *Ministry of Municipal Affairs and Housing Act, 1981*, being chapter 19, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*”.

18.—(1) Subsection 160 (7) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Sub-subclause F of subclause 365 (1) (j) (ii) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 485

F. section 14a of the *St. Clair Parkway Commission Act*,

R.S.O. 1980,
c. 486

G. section 12a of the *St. Lawrence Parks Commission Act*.

19. The *Provincial Parks Municipal Tax Assistance Act*, being chapter 402 of the Revised Statutes of Ontario, 1980, is repealed.

20. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

21. The short title of this Act is the *Municipal Payments in Lieu of Taxes Statute Law Amendment Act, 1984*. Short title

Bill 58

*(Chapter 45
Statutes of Ontario, 1984)*

An Act to amend certain Acts related to Payments in Lieu of Taxes to Municipalities

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	May 8th, 1984
<i>2nd Reading</i>	November 1st, 1984
<i>3rd Reading</i>	November 23rd, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 58

1984

**An Act to amend certain Acts related to
Payments in Lieu of Taxes to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Municipal Tax Assistance Act*, being chapter 311 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “Minister” means the Minister of Municipal Affairs and Housing.

(2) Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) This Act does not apply to unpatented lands, parks operated under the *Niagara Parks Act*, the *St. Clair Parkway Commission Act* or the *St. Lawrence Parks Commission Act*, hospitals, penal institutions, educational institutions, museums, libraries, highways, correctional institutions, cemeteries, minerals, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property that is subject to municipal taxation under section 17 of the *Assessment Act*.

Non-appli-
cation
R.S.O. 1980,
cc. 317, 485,
486. 31

(2) The Minister may decide as to whether this Act applies to any provincial property and the Minister’s decision is final.

Minister’s
decision

(3) Section 4 of the said Act is amended by striking out “Ministry” where it occurs in subsections (1), (3) and (5) and inserting in lieu thereof in each instance “Minister” and by adding thereto the following subsections:

(9) For the purposes of this section, in the year 1984, the Minister of Revenue shall provide the Minister with an estimated assessed value of each agricultural research station, provincial park, historical park and wilderness area or the part of any such station, park or area within each municipality, and

Estimated
assessed
value

such values shall be used as the assessed value of the property for the purposes of payments to be made for the year 1984.

Minimum payable re agricultural stations and provincial parks

R.S.O. 1980, cc. 302, 402

(10) Notwithstanding any other provision of this Act, the minimum amount payable under subsections (1) and (2) to a municipality in respect of agricultural research stations, provincial parks, historical parks and wilderness areas situate in the municipality shall be an amount equal to the amount the municipality was entitled to receive in 1983 under subsection 160 (7) of the *Municipal Act* and section 4 of the *Provincial Parks Municipal Tax Assistance Act* as those provisions read on the 31st day of December, 1983.

Municipal assessment deemed increased

(11) For the purposes of any general or special Act, the equalized assessment of a municipality that receives a payment under subsection (10) shall be deemed for apportionment purposes, other than for school purposes or for county purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Exclusion of certain taxes

R.S.O. 1980, c. 31

(12) In determining the taxes levied on commercial and industrial assessment under subsection (11), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

(4) Section 5 of the said Act is repealed and the following substituted therefor:

Payment by Minister

5. The Minister may make a payment under this Act on behalf of any ministry or Crown agency and the payment may be recovered from the ministry or Crown agency on whose behalf the payment was made.

2. Section 3 of the *Provincial Parks Act*, being chapter 401 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Tax assistance, assessment
R.S.O. 1980, c. 311

(7) Notwithstanding subsection (5), for the purposes of the *Municipal Tax Assistance Act*, any land set apart as a provincial park or added thereto shall be deemed not to be separated from the municipality of which it formed a part immediately before it became a provincial park or a part thereof.

3. The *Niagara Parks Act*, being chapter 317 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission, Payments
in lieu
of taxes

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually, Determi-
nations

(a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and

(b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

(3) For the purposes of the *Regional Municipality of Hamilton-Wentworth Act* and the *Regional Municipality of Niagara Act*, the equalized assessment of an area municipality that receives a payment under this Act shall be deemed for apportionment purposes, other than for school purposes, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000. Municipal
assessment
deemed
increased
R.S.O. 1980,
cc. 437, 438

(4) In determining the taxes levied on commercial and industrial assessment under subsection (3), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*. Exclusion
of certain
taxes
R.S.O. 1980,
c. 31

4. The *St. Clair Parkway Commission Act*, being chapter 485 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

- (a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or
- (b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

Determi-
nations

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

5. The *St. Lawrence Parks Commission Act*, being chapter 486 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

12a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

- (a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or
- (b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually, Determinations

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

6. Subsection 97 (10) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

7. Subsection 79 (10) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

8. Subsection 90 (10) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

9. Subsection 101 (10) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines and inserting in lieu thereof "section 14a of the *Niagara Parks Act*".

10. Subsection 121 (11) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

11. Subsection 85 (10) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the

Provincial Parks Municipal Tax Assistance Act” in the tenth and eleventh lines.

12. Subsection 71 (11) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

13. Subsection 118 (11) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

14. Subsection 74 (10) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

15. Subsection 86 (10) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

16. Clause 3 (2) (b) of the *County of Haliburton Act, 1982*, being chapter 57, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*” in the first and second lines and inserting in lieu thereof “*Municipal Tax Assistance Act*”.

17. The Schedule to the *Ministry of Municipal Affairs and Housing Act, 1981*, being chapter 19, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*”.

18.—(1) Subsection 160 (7) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Sub-subclause F of subclause 365 (1) (j) (ii) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 485

F. section 14a of the *St. Clair Parkway Commission Act*,

R.S.O. 1980,
c. 486

G. section 12a of the *St. Lawrence Parks Commission Act*.

19. The *Provincial Parks Municipal Tax Assistance Act*, being chapter 402 of the Revised Statutes of Ontario, 1980, is repealed.

20. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

21. The short title of this Act is the *Municipal Payments in Lieu of Taxes Statute Law Amendment Act, 1984*. Short title

Bill 59

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. Grants that were formerly based on the population of a municipality will now be based on the number of households in that municipality. Grants to all municipalities providing their own law enforcement will now be calculated on the same basis. Provision is made for a new revenue guarantee grant in order to stabilize the total amount of grants received by any municipality from year to year. Provision is made for a change in the amount of various "per household" grants by regulation.

SECTION 1. Except for subsection (3), the amendments are consequential on the change from a "per capita" to a "per household" basis in calculating grants. Subsection (3) brings up to date the reference to the responsible Minister.

SECTION 2. Section 2 of the Act now provides for the payment of per capita grants to regional municipalities, based on the population of their constituent area municipalities. The re-enacted section provides for the payment of grants to those municipalities based instead on the number of households in their area municipalities. The amount of the grant is now \$11 per capita plus \$17 per capita in the case where the regional municipality is deemed to be a city for the purposes of the *Police Act*. The re-enacted section provides for the payment to each regional municipality of an amount of \$30 per household. (See section 2b of the Act as set out in section 3 of the Bill, for payments made to regional municipalities providing their own law enforcement). The amount of \$30 may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 3. Section 2a of the Act now provides for the payment to each area municipality of an amount per capita, based on density, in accordance with Schedule 1 to the Act. The re-enacted section provides for the payment of an amount per household, based on density. (See section 9 of the Bill for the re-enactment of Schedule 1). The amount per household based on density may be changed by regulations made by the Lieutenant Governor in Council.

Section 2b of the Act now provides for the payment of \$12 per capita to area municipalities providing their own law enforcement. The re-enacted section provides for the payment of \$47 per household to every municipality, whether upper tier (regional municipalities and counties) or lower tier (cities, towns, villages, townships and improvement districts), that provides its own law enforcement.

SECTION 4. Sections 3 and 3a of the Act now read as follows:

3. Any payments received under section 2 by a regional municipality shall be credited by the regional municipality to its general funds.

3a. Notwithstanding section 3, in each year, The Municipality of Metropolitan Toronto, The Regional Municipality of Peel and The District Municipality of Muskoka may credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of,

(a) \$11; and

(b) \$17 where the regional municipality is deemed to be a city for the purposes of the Police Act.

The re-enacted subsection 3 (1) provides that payments received by a regional municipality under section 2 (the general per household grant) and section 2b (the per household grant to a regional municipality providing its own law enforcement) be credited to the general funds of the regional municipality. It carries forward the same principle now found in section 3 of the Act.

New subsection 3 (2) permits The Regional Municipality of Peel to instead credit its constituent area municipalities with the appropriate amounts, based on the number of households in each such area municipality.

SECTION 5. Section 4 of the Act now provides for the payment of per capita grants to lower tier municipalities (other than area municipalities) of \$11 plus an additional \$12 where the lower tier municipality provides its own law enforcement. The re-enacted section provides for the payment to each such lower tier municipality of an amount of \$30 per household. (See section 2b of the Act, as set out in section 3 of the Bill, for the payments made to lower tier municipalities providing their own law enforcement). The amount of \$30 per household may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 6.—Subsection 1. The amendment is consequential on the change in the method of calculating grants to one based on the number of households in a municipality.

Subsection 2. Subsection 8 (3) proposed to be repealed, provides for the payment of grants to municipalities that would otherwise experience increases in taxation by reason of a revised resource equalization grant. Subsection 8 (5) now reads as follows:

(5) The clerk of every lower tier municipality upon receiving notice from the Ministry of the amount of resource equalization grant shall provide to the upper tier municipality a statement of the total grant and the portion payable to the upper tier municipality.

This notice requirement is being repealed as unnecessary.

SECTION 7. The section added provides for the payment of a revenue guarantee grant to municipalities where necessary to stabilize the total grants received under the Act from year to year, except in respect of grants paid under section 5 (to reduce undue increases in taxation arising out of various specified occurrences) and section 9a (grants made for the purpose of limiting shifts in taxation caused by a change in the apportionment formula or equalization factors).

SECTION 8. Clause 14 (1) (e) now provides for regulations to be made by the Lieutenant Governor in Council prescribing the manner in which population is to be determined—no longer required in view of the “per household” method of calculating grants. The re-enacted clause will authorize regulations to be made permitting the Minister to make certain revisions to the financial data furnished by a municipality for the purpose of calculating grants.

SECTION 9. The Schedule is re-enacted to reflect the calculation of grants to area municipalities based on density on a “per household” rather than a “per capita” basis. (See the Note to section 3 of the Bill).

Bill 59

1984

**An Act to amend the
Ontario Unconditional Grants Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, is amended by striking out “residential properties” in the first and second lines and inserting in lieu thereof “households”.

(2) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 1, is further amended by adding thereto the following clause:

(da) “household” means a parcel of land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* according to the last returned assessment roll that is used or intended to be used as a residence, except that in respect of a Canadian Forces Base, “household” means a self-contained living unit consisting of two or more rooms in which the occupants usually sleep and prepare and serve meals.

R.S.O. 1980,
c. 31

(3) Clause 1 (1) (g) of the said Act is repealed and the following substituted therefor:

(g) “Minister” means the Minister of Municipal Affairs and Housing.

(4) Clause 1 (1) (k) of the said Act is repealed.

(5) Subsection 1 (2) of the said Act is repealed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 2 and 1982, chapter 14, section 1, is repealed and the following substituted therefor:

Grants per household

2. In each year there shall be paid to every regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in the area municipalities in that regional municipality.

3. Sections 2a and 2b of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 2, are repealed and the following substituted therefor:

Payments to area municipalities

2a. In each year there shall be paid to every area municipality an amount per household based on the density of the area municipality in accordance with Schedule 1 or such other amount per household based on density as may be prescribed.

Payments to upper tier and lower tier municipalities providing law enforcement R.S.O. 1980, c. 381

2b. In each year a payment of \$47 per household, or such other amount per household as may be prescribed, shall be made to every upper tier municipality and lower tier municipality providing its own law enforcement in accordance with the *Police Act* by maintaining its own police force or by having an agreement for the policing of the municipality by the police force of another municipality or by being under contract for the policing of the municipality by the Ontario Provincial Police Force.

4. Section 3, as re-enacted by the Statutes of Ontario, 1982, chapter 14, section 3 and section 3a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 3, are repealed and the following substituted therefor:

Payments credited to general funds

3.—(1) Any payments received under sections 2 and 2b by a regional municipality shall be credited by the regional municipality to its general funds.

Credit to area municipalities

(2) Notwithstanding subsection (1), in each year, The Regional Municipality of Peel may credit each area municipality situate in that regional municipality with an amount calculated by multiplying the number of households of the area municipality by the sum of the grants payable per household under sections 2 and 2b.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 14, section 4, is repealed and the following substituted therefor:

General grant per household

4. In each year there shall be paid to every lower tier municipality not situate in a regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in that municipality.

6.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is amended by striking out “capita” where it occurs in the third, fifth, eighth and ninth lines and inserting in lieu thereof in each instance “household”.

(2) Subsections 8 (3) and (5) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 9, section 7, are repealed.

7. The said Act is amended by adding thereto the following section:

8a. In each year there may be paid to any upper tier municipality and to any lower tier municipality a revenue guarantee grant in order to stabilize the total amount of grants received from year to year under this Act except for grants received under sections 5 and 9a, subject to such terms and conditions as may be prescribed.

8. Clause 14 (1) (e) of the said Act is repealed and the following substituted therefor:

(e) providing, for the purpose of calculating grants under this Act, for the revision by the Minister of financial data furnished by a municipality.

9. Schedule 1 to the said Act is repealed and the following substituted therefor:

SCHEDULE 1

Density	Amount Per Household
0.375 and under	\$14.00
Over 0.375 to and including 0.750	11.20
Over 0.750 to and including 1.125	8.40
Over 1.125 to and including 1.500	5.60
Over 1.500 to and including 1.875	2.80
Over 1.875	Nil

Revenue
guarantee
grants

Commence-
ment

10. This Act shall be deemed to have come into force on the 1st day of January, 1984.

Short title

11. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Bill 59

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984
2nd Reading May 29th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL. Grants that were formerly based on the population of a municipality will now be based on the number of households in that municipality. Grants to all municipalities providing their own law enforcement will now be calculated on the same basis. Provision is made for a new revenue guarantee grant in order to stabilize the total amount of grants received by any municipality from year to year. Provision is made for a change in the amount of various "per household" grants by regulation.

SECTION 1. Except for subsection (3), the amendments are consequential on the change from a "per capita" to a "per household" basis in calculating grants. Subsection (3) brings up to date the reference to the responsible Minister.

SECTION 2. Section 2 of the Act now provides for the payment of per capita grants to regional municipalities, based on the population of their constituent area municipalities. The re-enacted section provides for the payment of grants to those municipalities based instead on the number of households in their area municipalities. The amount of the grant is now \$11 per capita plus \$17 per capita in the case where the regional municipality is deemed to be a city for the purposes of the *Police Act*. The re-enacted section provides for the payment to each regional municipality of an amount of \$30 per household. (See section 2b of the Act as set out in section 3 of the Bill, for payments made to regional municipalities providing their own law enforcement). The amount of \$30 may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 3. Section 2a of the Act now provides for the payment to each area municipality of an amount per capita, based on density, in accordance with Schedule 1 to the Act. The re-enacted section provides for the payment of an amount per household, based on density. (See section 9 of the Bill for the re-enactment of Schedule 1). The amount per household based on density may be changed by regulations made by the Lieutenant Governor in Council.

Section 2b of the Act now provides for the payment of \$12 per capita to area municipalities providing their own law enforcement. The re-enacted section provides for the payment of \$47 per household to every municipality, whether upper tier (regional municipalities and counties) or lower tier (cities, towns, villages, townships and improvement districts), that provides its own law enforcement.

SECTION 4. Sections 3 and 3a of the Act now read as follows:

3. Any payments received under section 2 by a regional municipality shall be credited by the regional municipality to its general funds.

3a. Notwithstanding section 3, in each year, The Municipality of Metropolitan Toronto, The Regional Municipality of Peel and The District Municipality of Muskoka may credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of,

(a) \$11; and

(b) \$17 where the regional municipality is deemed to be a city for the purposes of the Police Act.

The re-enacted subsection 3 (1) provides that payments received by a regional municipality under section 2 (the general per household grant) and section 2b (the per household grant to a regional municipality providing its own law enforcement) be credited to the general funds of the regional municipality. It carries forward the same principle now found in section 3 of the Act.

New subsection 3 (2) permits The Regional Municipality of Peel to instead credit its constituent area municipalities with the appropriate amounts, based on the number of households in each such area municipality.

SECTION 5. Section 4 of the Act now provides for the payment of per capita grants to lower tier municipalities (other than area municipalities) of \$11 plus an additional \$12 where the lower tier municipality provides its own law enforcement. The re-enacted section provides for the payment to each such lower tier municipality of an amount of \$30 per household. (See section 2b of the Act, as set out in section 3 of the Bill, for the payments made to lower tier municipalities providing their own law enforcement). The amount of \$30 per household may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 6. The amendment rectifies an incorrect reference created in the Revised Statutes of Ontario, 1980.

SECTION 7.—Subsection 1. The amendment is consequential on the change in the method of calculating grants to one based on the number of households in a municipality.

Subsection 2. Subsection 8 (3) proposed to be repealed, provides for the payment of grants to municipalities that would otherwise experience increases in taxation by reason of a revised resource equalization grant. Subsection 8 (5) now reads as follows:

(5) The clerk of every lower tier municipality upon receiving notice from the Ministry of the amount of resource equalization grant shall provide to the upper tier municipality a statement of the total grant and the portion payable to the upper tier municipality.

This notice requirement is being repealed as unnecessary.

SECTION 8. The section added provides for the payment of a revenue guarantee grant to municipalities where necessary to stabilize the total grants received under the Act from year to year, except in respect of grants paid under section 5 (to reduce undue increases in taxation arising out of various specified occurrences) and section 9a (grants made for the purpose of limiting shifts in taxation caused by a change in the apportionment formula or equalization factors).

SECTION 9. Clause 14 (1) (e) now provides for regulations to be made by the Lieutenant Governor in Council prescribing the manner in which population is to be determined—no longer required in view of the “per household” method of calculating grants. The re-enacted clause will authorize regulations to be made permitting the Minister to make certain revisions to the financial data furnished by a municipality for the purpose of calculating grants.

SECTION 10. The Schedule is re-enacted to reflect the calculation of grants to area municipalities based on density on a “per household” rather than a “per capita” basis. (See the Note to section 3 of the Bill).

Bill 59

1984

**An Act to amend the
Ontario Unconditional Grants Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, is amended by striking out “residential properties” in the first and second lines and inserting in lieu thereof “households”.

(2) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 1, is further amended by adding thereto the following clause:

(da) “household” means a parcel of land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* according to the last returned assessment roll that is used or intended to be used as a residence, except that in respect of a Canadian Forces Base, “household” means a self-contained living unit consisting of two or more rooms in which the occupants usually sleep and prepare and serve meals.

R.S.O. 1980,
c. 31

(3) Clause 1 (1) (g) of the said Act is repealed and the following substituted therefor:

(g) “Minister” means the Minister of Municipal Affairs and Housing.

(4) Clause 1 (1) (k) of the said Act is repealed.

(5) Subsection 1 (2) of the said Act is repealed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 2 and 1982, chapter 14, section 1, is repealed and the following substituted therefor:

Grants per household

2. In each year there shall be paid to every regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in the area municipalities in that regional municipality.

3. Sections 2a and 2b of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 2, are repealed and the following substituted therefor:

Payments to area municipalities

2a. In each year there shall be paid to every area municipality an amount per household based on the density of the area municipality in accordance with Schedule 1 or such other amount per household based on density as may be prescribed.

Payments to upper tier and lower tier municipalities providing law enforcement R.S.O. 1980, c. 381

2b. In each year a payment of \$47 per household, or such other amount per household as may be prescribed, shall be made to every upper tier municipality and lower tier municipality providing its own law enforcement in accordance with the *Police Act* by maintaining its own police force or by having an agreement for the policing of the municipality by the police force of another municipality or by being under contract for the policing of the municipality by the Ontario Provincial Police Force.

4. Section 3, as re-enacted by the Statutes of Ontario, 1982, chapter 14, section 3 and section 3a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 3, are repealed and the following substituted therefor:

Payments credited to general funds

3.—(1) Any payments received under sections 2 and 2b by a regional municipality shall be credited by the regional municipality to its general funds.

Credit to area municipalities

(2) Notwithstanding subsection (1), in each year, The Regional Municipality of Peel may credit each area municipality situate in that regional municipality with an amount calculated by multiplying the number of households of the area municipality by the sum of the grants payable per household under sections 2 and 2b.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 14, section 4, is repealed and the following substituted therefor:

General grant per household

4. In each year there shall be paid to every lower tier municipality not situate in a regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in that municipality.

6. Clause 7 (1) (e) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 6, is further amended by striking out “subclauses 1 (1) (c) (i) and (iii)” in the fourth line and inserting in lieu thereof “subclauses 1 (1) (b) (i) and (iii)”.

7.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is amended by striking out “capita” where it occurs in the third, fifth, eighth and ninth lines and inserting in lieu thereof in each instance “household”.

(2) Subsections 8 (3) and (5) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 9, section 7, are repealed.

8. The said Act is amended by adding thereto the following section:

8a. In each year there may be paid to any upper tier municipality and to any lower tier municipality a revenue guarantee grant in order to stabilize the total amount of grants received from year to year under this Act except for grants received under sections 5 and 9a, subject to such terms and conditions as may be prescribed.

9. Clause 14 (1) (e) of the said Act is repealed and the following substituted therefor:

(e) providing, for the purpose of calculating grants under this Act, for the revision by the Minister of financial data furnished by a municipality.

10. Schedule 1 to the said Act is repealed and the following substituted therefor:

SCHEDULE 1

Density	Amount Per Household
0.375 and under	\$14.00
Over 0.375 to and including 0.750	11.20
Over 0.750 to and including 1.125	8.40
Over 1.125 to and including 1.500	5.60
Over 1.500 to and including 1.875	2.80
Over 1.875	Nil

Commence-
ment

11. This Act shall be deemed to have come into force on the 1st day of January, 1984.

Short title

12. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Bill 59

*(Chapter 23
Statutes of Ontario, 1984)*

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	May 8th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 59**1984**

**An Act to amend the
Ontario Unconditional Grants Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, is amended by striking out “residential properties” in the first and second lines and inserting in lieu thereof “households”.

(2) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 1, is further amended by adding thereto the following clause:

(da) “household” means a parcel of land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* according to the last returned assessment roll that is used or intended to be used as a residence, except that in respect of a Canadian Forces Base, “household” means a self-contained living unit consisting of two or more rooms in which the occupants usually sleep and prepare and serve meals.

R.S.O. 1980,
c. 31

(3) Clause 1 (1) (g) of the said Act is repealed and the following substituted therefor:

(g) “Minister” means the Minister of Municipal Affairs and Housing.

(4) Clause 1 (1) (k) of the said Act is repealed.

(5) Subsection 1 (2) of the said Act is repealed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 2 and 1982, chapter 14, section 1, is repealed and the following substituted therefor:

Grants per
household

2. In each year there shall be paid to every regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in the area municipalities in that regional municipality.

3. Sections 2a and 2b of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 2, are repealed and the following substituted therefor:

Payments
to area
municipalities

2a. In each year there shall be paid to every area municipality an amount per household based on the density of the area municipality in accordance with Schedule 1 or such other amount per household based on density as may be prescribed.

Payments to
upper tier
and
lower tier
municipalities
providing law
enforcement
R.S.O. 1980,
c. 381

2b. In each year a payment of \$47 per household, or such other amount per household as may be prescribed, shall be made to every upper tier municipality and lower tier municipality providing its own law enforcement in accordance with the *Police Act* by maintaining its own police force or by having an agreement for the policing of the municipality by the police force of another municipality or by being under contract for the policing of the municipality by the Ontario Provincial Police Force.

4. Section 3, as re-enacted by the Statutes of Ontario, 1982, chapter 14, section 3 and section 3a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 3, are repealed and the following substituted therefor:

Payments
credited to
general funds

3.—(1) Any payments received under sections 2 and 2b by a regional municipality shall be credited by the regional municipality to its general funds.

Credit to
area
municipalities

(2) Notwithstanding subsection (1), in each year, The Regional Municipality of Peel may credit each area municipality situate in that regional municipality with an amount calculated by multiplying the number of households of the area municipality by the sum of the grants payable per household under sections 2 and 2b.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 14, section 4, is repealed and the following substituted therefor:

4. In each year there shall be paid to every lower tier municipality not situate in a regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in that municipality.

General
grant per
household

6. Clause 7 (1) (e) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 6, is further amended by striking out “subclauses 1 (1) (c) (i) and (iii)” in the fourth line and inserting in lieu thereof “subclauses 1 (1) (b) (i) and (iii)”.

7.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is amended by striking out “capita” where it occurs in the third, fifth, eighth and ninth lines and inserting in lieu thereof in each instance “household”.

(2) Subsections 8 (3) and (5) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 9, section 7, are repealed.

8. The said Act is amended by adding thereto the following section:

8a. In each year there may be paid to any upper tier municipality and to any lower tier municipality a revenue guarantee grant in order to stabilize the total amount of grants received from year to year under this Act except for grants received under sections 5 and 9a, subject to such terms and conditions as may be prescribed.

Revenue
guarantee
grants

9. Clause 14 (1) (e) of the said Act is repealed and the following substituted therefor:

- (e) providing, for the purpose of calculating grants under this Act, for the revision by the Minister of financial data furnished by a municipality.

10. Schedule 1 to the said Act is repealed and the following substituted therefor:

SCHEDULE 1

Density	Amount Per Household
0.375 and under	\$14.00
Over 0.375 to and including 0.750	11.20
Over 0.750 to and including 1.125	8.40
Over 1.125 to and including 1.500	5.60
Over 1.500 to and including 1.875	2.80
Over 1.875	Nil

Commence-
ment

11. This Act shall be deemed to have come into force on the 1st day of January, 1984.

Short title

12. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.



Bill 60

An Act to amend the Municipal Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The re-enactment of paragraph 22 of section 1, deletes an obsolete reference to biennial elections.

SECTIONS 2 and 3. The repeal of section 59 and the re-enactment of subsection 72 (2) will have the effect of consolidating and simplifying the provisions of the Act related to the appointment of an acting head of council.

SECTION 4. The repeal of subsection 77 (4) is complementary to the enactment of section 78a as set out in section 6 of the Bill.

SECTION 5. The re-enactment of subsection 78 (2) changes references to the *Planning Act* (R.S.O. 1980, c. 379) to references to the *Planning Act, 1983* (c. 1). The repeal of subsection 78 (3) is complementary to the enactment of section 78b as set out in section 6 of the Bill.

SECTION 6. The proposed section 78a authorizes municipalities and local boards to transfer their documents to the Provincial Archivist.

The proposed section 78b provides for the receiving in evidence of documents of a municipality that are in the possession of the clerk or the Archivist.

SECTION 7. The re-enactment of subsection 98 (5) clarifies that costs may be awarded to a local board in proceedings in which the local board is represented by a lawyer who is a salaried officer of the local board or of a municipality acting on behalf of the local board.

SECTION 8. The proposed subsection 122 (2a) authorizes a municipality to enter agreements with any other municipality located in Canada or the United States related to the use of the property and staff of the municipality by the other municipality and vice versa.

SECTION 9. The amendment deletes a requirement for the approval by the Minister of agreements made under paragraph 58 of section 208.

SECTION 10. Section 209 is now considered to be obsolete and it is proposed that the section be repealed. Section 209 provides for the making of certain grants and for the establishment of emergency measures civil defence organizations. The power of municipalities to make grants is now set out in section 113 of the Act which was enacted in 1980. Emergency plans are now provided for in the *Emergency Plans Act, 1983*.

SECTION 11.—Subsection 1. Clause (b) of paragraph 96 of section 210 requires fees to be paid by municipal corporations to school boards with respect to children who live in municipally owned trailer camps or parks. The proposed clause (c) exempts municipalities from this requirement if the trailers are liable for assessment and taxation under the *Assessment Act*.

Subsection 2. The re-enactment of clause (d) of paragraph 125 corrects an internal reference to subsection 321a (1) of the Act.

SECTION 12. Clause 211 (1) (b) is amended to add hairstyling establishments and hair-dressing establishments to the list of businesses that are included in the definition of shop for the purpose of regulating closing hours.

SECTION 13. Clause (a) of paragraph 3 of section 225 is now obsolete and it is proposed that the clause be repealed. The clause dispensed with the need for obtaining the assent of the electors where a county council proposed to establish a county farm. Under amendments to the Act in 1982, the requirement for the assent of the electors was eliminated with respect to money by-laws.

SECTION 14. The proposed re-enactment of paragraph 2 of section 232 adds hairstyling establishments to the list of businesses that may be licensed by a municipality.

SECTIONS 15 to 21. The amendments set out in sections 15 to 21 of the Bill all relate to county bridges and county roads. The principal purpose of the amendments is to delete the authority of county councils to erect bridges on highways that are not part of the county road system and to provide a mechanism whereby county councils, with the consent of the local municipality or municipalities, may transfer their jurisdiction over existing bridges that are not on the county road system back to the local municipality or municipalities that have jurisdiction over the highways on which the bridges are situate.

The repeal of section 274 deletes the requirement that a county must upgrade a township road immediately after the county assumes jurisdiction over the road.

SECTION 22. The proposed repeal of subsection 298 (3) deletes the requirement for the approval of the Minister with respect to by-laws for altering or diverting shoreline roads and roads leading to water. A new procedure for the passing of by-laws to stop up, sell or lease shoreline road allowances and road allowances leading to water is set out in the proposed section 303a of the Act (see section 23 of the Bill).

The proposed repeal of subsection 298 (6) deletes the requirement for a judge's approval of by-laws closing highways in townships in unorganized territory and in townships that are separated from the counties in which they are situate. The re-enactment of subsection 298 (7) is complementary to the repeal of subsection 298 (6).

Under subsection 298 (12) by-laws related to roads must be registered in the land registry office if the roads are lands to which the *Registry Act* applies. The proposed re-enactment of this subsection will require the registration of such by-laws related to roads in areas to which the *Land Titles Act* applies. The proposed subsections 298 (13) and (14) provide that the registration requirement does not apply to such by-laws in the land registry system if they were passed before the enactment of the forerunner of the present subsection 298 (12) or to such by-laws in the land titles system if they were passed before the coming into force of the new subsection 298 (12).

SECTION 23. The proposed section 303a establishes a procedure for the passing of by-laws for the stopping up or selling or leasing of unopened shoreline road allowances and unopened road allowances that lead to water. A council that proposes to consider such a by-law will be required to give public notice of the proposed by-law and will be required to hear objectors before making a decision. The Minister and the upper tier municipality in which the road allowance is situate will be able to veto such a by-law and the Minister will be authorized to direct that such a by-law will not take effect until it is approved by the Municipal Board.

SECTION 24. The repeal of subsection 306 (2) will enable municipalities to lay out highways that are less than twenty metres in width without obtaining the approval of the Minister. The repeal of subsection 306 (4) is complementary to the repeal of subsection 306 (2).

SECTION 25. The proposed amendment to section 325 deletes an unnecessary reference to dispensing with the assent of the electors (see the Explanatory Note to section 13 of the Bill).

SECTION 26. Under section 386, a municipality by by-law may provide for the payment of taxes in bulk or by instalment and may allow discounts for early payment of taxes or impose an additional percentage charge for the late payment of taxes. The proposed amendments to subsection 386 (6) extend the time during which a taxpayer may take advantage of these provisions from fourteen to twenty-one days after notice thereof is sent to the taxpayer. In addition, the council of a municipality will be authorized to extend the twenty-one day period.

SECTION 27. Subsections 387 (1) and (2) provide for the collection of overdue taxes by distress. Under the proposed amendments, the tax collector or treasurer will be required to wait at least twenty-one days, instead of the present fourteen days, before distraining.

Bill 60**1984****An Act to amend the Municipal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 22 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

22. "regular election" means an election required to be held under section 10 of the *Municipal Elections Act*.

R.S.O. 1980,
c. 308

2. Section 59 of the said Act is repealed.

3. Subsection 72 (2) of the said Act is repealed and the following substituted therefor:

(2) When the head of council is absent or refuses to act, or the office is vacant, the council may by resolution appoint one of its members to act in the place and stead of the head of council and while so acting, the member has and may exercise all the rights, powers and authority of the head of council.

Acting head

4. Subsection 77 (4) of the said Act is repealed.

5. Subsections 78 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The clerk shall keep an index book in which the clerk shall enter the number and date of,

Index of
zoning by-
laws,
etc.

(a) every subsisting by-law heretofore passed under section 34 of the *Planning Act*, 1983 or a predecessor of that section;

1983, c. 1

(b) every by-law hereafter passed under section 34 of the *Planning Act*, 1983; and

- (c) every other subsisting by-law, and every other by-law hereafter passed, that affects land but does not directly affect the title to land.

6. The said Act is amended by adding thereto the following sections:

Transfer of documents to Archivist

78a.—(1) Notwithstanding subsection 77 (1), but subject to section 116, the Archivist of Ontario and a municipal council may agree that any document of the municipality may be transferred to and kept by the Archivist.

Idem
R.S.O. 1980,
c. 303

(2) Subject to section 116, the Archivist of Ontario and a local board, as defined in the *Municipal Affairs Act*, may agree that any document of the local board may be transferred to and kept by the Archivist.

Copies of certain by-laws to be kept

(3) Where a council or local board agrees under subsection (1) or (2) to transfer the original of a by-law that, at the time of the transfer, is still in force or the operation of which is not spent, the clerk shall obtain and keep, until such time as the by-law is no longer in force or is spent, a photographic copy of the by-law.

Interpretation

(4) In this section and section 78b, “document” includes originals of by-laws, resolutions, books, records, accounts and papers of any nature.

Certified copies of documents receivable in evidence

78b.—(1) A copy of any document in the possession or under the control of the clerk of a municipality purporting to be certified by the clerk and under the seal of the corporation may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

Idem

(2) A copy of any document kept by the Archivist under subsection 78a (1) or (2) and certified by the Archivist may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

7. Subsection 98 (5) of the said Act is repealed and the following substituted therefor:

(5) Notwithstanding any other Act, in any proceeding to which a municipality or local board, as defined in the *Municipal Affairs Act*, is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or of a municipality acting on behalf of the local board performing the services in the discharge of his duty and remunerated therefor by his salary, and for that or any other reason was not entitled to recover any costs from the municipality or local board in respect of the services rendered, and,

Costs in legal proceedings
R.S.O. 1980,
c. 303

- (a) the costs recovered by or on behalf of the municipality shall form part of the general funds of the municipality; and
- (b) the costs recovered by or on behalf of the local board shall form part of the general funds of the local board.

8. Section 122 of the said Act is amended by adding thereto the following subsection:

(2a) A municipality may enter into and perform agreements with any other municipality located in Canada or the United States of America on such terms and conditions as may be set out in the agreement for the use of,

Agreements with other municipal jurisdictions

- (a) any of the real and personal property; and
- (b) the services of any of the officers and servants,

of the municipality or the other municipality.

9. Paragraph 58 of section 208 of the said Act is repealed and the following substituted therefor:

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

Regional economic development agreements

10. Section 209 of the said Act is repealed.

11.—(1) Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:

R.S.O. 1980,
c. 31

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

(2) Clause (d) of paragraph 125 of the said section 210, as amended by the Statutes of Ontario, 1982, chapter 24, section 10, is repealed and the following substituted therefor:

- (d) Notwithstanding subsection 321a (1) and subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the written complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.

12. Clause 211 (1) (b) of the said Act is amended by inserting after "shops" in the third line "hairstyling establishments, hairdressing establishments".

13. Clause (a) of paragraph 3 of section 225 of the said Act is repealed.

14. Paragraph 2 of section 232 of the said Act is repealed and the following substituted therefor:

Barber
shops,
etc.

2. For licensing, regulating and governing the owners of barber shops, hairstyling establishments and hairdressing establishments, and for revoking any such licence.

15. Section 261 of the said Act is repealed and the following substituted therefor:

Jurisdiction
of county
council over
highways

261.—(1) The council of a county has jurisdiction over every highway and boundary line assumed by the council and every bridge thereon.

Duty with
respect to
bridges

(2) Where the council of a county has jurisdiction over a highway, the council of the county, at the expense of the county, shall cause to be erected and maintained or rebuilt or replaced and maintained the bridges on the highway.

Continued
jurisdiction
over certain
bridges

(3) Subject to a by-law passed under subsection 278 (1), the council of a county continues on and after the day this section comes into force,

- (a) to have jurisdiction over all bridges over which it had jurisdiction immediately before this section comes into force;
- (b) to have joint jurisdiction over all bridges over which it had joint jurisdiction immediately before this section comes into force,

and the council of the county, at the expense of the county or at the joint expense of the municipalities, as the case may be, shall cause every such bridge to be rebuilt or replaced and maintained.

16. Section 262 of the said Act is amended by inserting after "is" in the first line "to maintain or".

17. Section 263 of the said Act is amended by inserting after "is" in the first line "to maintain or".

18. Section 266 of the said Act is repealed.

19.—(1) Subsection 270 (1) of the said Act is repealed and the following substituted therefor:

(1) The council of a county may by by-law assume as a county road any highway within a town, not being a separated town, or within a village or township.

Assumption
of county
councils of
highways

(2) Subsection 270 (7) of the said Act is repealed and the following substituted therefor:

(7) When a by-law passed under this section is repealed, the highway and the bridges thereon cease to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

Effect of
repeal

20. Sections 273, 274 and 275 of the said Act are repealed.

21. Sections 276, 277 and 278 of the said Act are repealed and the following substituted therefor:

276.—(1) Where a bridge joins or is to join a highway under the jurisdiction of one municipal corporation to a highway under the jurisdiction of another municipal corporation, it is the duty of the municipal corporations whose highways are joined or to be joined to maintain or erect and maintain the bridge.

Bridges on
highways
under
different
jurisdictions

Bridges on
boundary
lines

(2) Where a bridge forms part of a boundary line, it is the duty of the municipal corporations that are responsible for maintaining the boundary line to maintain or to erect and maintain all necessary bridges on the boundary line.

Maintenance
of boundary
lines

277.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be maintained or erected and maintained by another corporation.

Local
municipalities
to erect and
maintain
certain
bridges

278.—(1) Where a bridge that is not on a county road or that is not on a boundary line assumed by the county is under the exclusive or joint jurisdiction of the council of a county, the council of the county may transfer by by-law its jurisdiction and control over the bridge to the council or councils of the local municipality or local municipalities in the county that has or have jurisdiction over the highway or boundary line on which the bridge is situate and the transfer may be made on such terms and conditions as the councils may agree upon.

Approval

(2) A by-law passed under subsection (1) does not take effect until it is approved by a by-law of the local municipality or the local municipalities to which the jurisdiction and control over the bridge is being transferred.

Effect of
transfer

(3) On the day that a transfer under subsection (1) takes effect, all rights, liabilities and obligations of the county in respect of the bridge are transferred to and are vested in and imposed upon the local municipality or, where the jurisdiction is transferred to the council of more than one local municipality, the local municipalities, jointly.

22.—(1) Subsections 298 (3) and (6) of the said Act are repealed.

(2) Subsection 298 (7) of the said Act is repealed and the following substituted therefor:

Notice to
clerk of
county

(7) Where the council of a township intends to pass a by-law under clause (1) (c), it shall so notify, in writing, the clerk of the county in which the township is situate by registered mail or by personal service.

(3) Subsection 298 (12) of the said Act is repealed and the following substituted therefor:

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property, any street, road or highway does not take effect until it has been registered in the land registry office of the land titles division or registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration
of by-laws

(13) Subsection (12) does not apply, and shall be deemed never to have applied, so as to require the registration of a by-law passed before the 29th day of March, 1873.

Exception

(14) Subsection (12) does not apply so as to require the registration of a by-law passed before the day this subsection comes into force in respect of land registered under the *Land Titles Act*.

Idem

R.S.O. 1980,
c. 230

23. The said Act is further amended by adding thereto the following section:

303a.—(1) This section applies only to by-laws for stopping up or selling or leasing the soil and freehold in respect of an unopened allowance for road reserved in the original survey where the allowance for road,

Shoreline
road
allowances
and
allowances
for roads
leading to
water

- (a) runs along the bank of any river, stream or other water;
- (b) runs along or is on the shore of any lake or other water;
- (c) leads to the bank of any river or stream; or
- (d) leads to the shore of any lake or other water,

and subsections 298 (7), (8) and (9) and sections 299 and 301 do not apply to any such by-law.

(2) At least sixty-five days before the meeting of the council at which a by-law to which this section applies is to be taken into consideration, written notice of the proposed by-law shall be given,

Notice of
by-law,
hearing

- (a) by personal service or by first class mail to all assessed owners of land lying within 120 metres of the allowance; and

- (b) by personal service or by registered mail to the Minister and to the clerk of the county or regional, metropolitan or district municipality in which the allowance is situate,

and notice of the proposed by-law shall be published at least once not less than sixty-five days before such meeting.

Right of ingress and egress not to be taken away by closing allowance

(3) A by-law to which this section applies shall not be passed if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from the person's land or place of residence unless the person consents to its passing.

Effect of objections

(4) If the Minister or the council of the county or of the regional, metropolitan or district municipality in which the allowance is situate objects to the passing of the proposed by-law, the Minister or the council, as the case may be, shall notify the clerk of the municipality which proposes to pass the by-law, in writing and delivered by personal service or by registered mail within sixty days of the receipt of the notice sent under subsection (2), and where a notice of objection is received in accordance with this subsection, the by-law shall not be passed.

Reference to Municipal Board

(5) At any time after the notice is received by the Minister under subsection (2) and before the passage of the proposed by-law, the Minister may direct that the by-law not take effect until it is approved by the Municipal Board and, where within forty-five days of the first publication of the notice under subsection (2), the Minister receives a written objection, which objection shall set out the reasons therefor, from any person or other body to the proposed by-law, the Minister shall direct that the by-law shall not take effect until it is approved by the Municipal Board, unless, in the Minister's opinion, the objection is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay.

Objections not affected

(6) Nothing in subsection (5) affects an objection or the power to make an objection under subsection (4).

Direction

(7) A direction under subsection (5) shall be in writing and shall be delivered by personal service or by registered mail to the clerk of the municipality that proposes to pass the by-law and shall be accompanied by copies of the objections, if any, and a copy of the direction and the objections, if any, shall be sent to the Municipal Board by the Minister.

Notice of hearing

(8) At least five days before the council considers a by-law to which this section applies, the clerk of the municipality,

shall give notice of the hearing to every person whose objection was received under subsection (7), and to all other persons who have applied to be heard and before passing the by-law, the council shall give every such person an opportunity to be heard and, except where a direction has been received under subsection (7), the decision of the council is final.

(9) Where a direction has been received under subsection (7), the by-law if passed by the council does not take effect until it is approved by the Municipal Board, and where the council does not pass the by-law, the decision of the council is final.

Effect of
direction

(10) The clerk shall give the notices under subsection (2) upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing.

Cost of
notices

24. Subsections 306 (2) and (4) of the said Act are repealed.

25. Section 325 of the said Act is amended by striking out "without obtaining the assent of the electors" in the eleventh and twelfth lines.

26. Subsection 386 (6) of the said Act is amended by striking out "fourteen days" in the seventh and eighth lines and inserting in lieu thereof "twenty-one days or such longer period as the council may authorize".

27.—(1) Subsection 387 (1) of the said Act is amended by striking out "fourteen" in the second line and inserting in lieu thereof "twenty-one" and by inserting after "386" in the fourth line "or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period".

(2) Subsection 387 (2) of the said Act is amended by striking out "fourteen" in the second line and inserting in lieu thereof "twenty-one" and by inserting after "386" in the fourth line "or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period".

28. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

29. The short title of this Act is the *Municipal Amendment Act, 1984*.

Short title

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Bill 61

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTIONS 1, 2, 3, 7, 9, 10 and 11. References in the Act to the boroughs of Etobicoke, Scarborough and York are changed to read as references to the cities of Etobicoke, Scarborough and York.

SECTION 4. The proposed amendments to section 17 of the Act delete obsolete references to sections 63 and 64 of the *Municipal Act* which were repealed by the *Municipal Conflict of Interest Act, 1983*.

SECTION 5. Section 19 of the Act requires the Metropolitan clerk to supply copies of municipal documents. Under the Act, as it now reads, the clerk must charge a rate of 15 cents for each 100 words or such lower rate as the Metropolitan Council may fix. The amendment will give the municipality the same flexibility as other municipalities have with respect to charging fees for photocopying.

SECTION 6. The subsection proposed to be added deems the Pension Plan and the Benefit Fund mentioned to be, for the purpose of acquiring, holding and disposing of land, bodies corporate. The purpose is to facilitate the dealing with land and does not otherwise affect the powers of the trustees of the Plan and of the Fund in the carrying out of the objects thereof.

SECTION 8. Section 62 of the Act empowers the Metropolitan Corporation to contribute toward the cost to an area municipality of separating combined sewers, not to exceed 25 per cent of the total cost. The amendment removes that limitation.

SECTION 12. Because of recent amendments to the *Municipal Elections Act*, the reference in subsection 152 (5) to biennial elections is now obsolete. It is proposed that this reference be changed to read as a reference to regular elections.

SECTION 13. New section 163a vests in the Metropolitan Corporation the undisbursed interest accumulated prior to January 1, 1982 on the trust accounts of residents of Metropolitan Toronto Homes for the Aged, to be distributed in the manner set out. This undisbursed interest fund arises from the fact that, during the period 1955 (when trust funds were first deposited in interest-bearing accounts) to 1973 the interest was not credited to the individual trust accounts but the use thereof for the general welfare and entertainment of the residents was authorized by the Metropolitan Council. In the period 1973 to 1981 the estimated interest, and since then, the actual interest has been credited to the individual trust accounts. The result has been the accumulation of a very substantial sum of interest moneys, the distribution of which to the appropriate trust accounts is in many cases impossible and in others administratively impracticable.

New section 186a makes it explicit that subsection 24 (5) of the *Building Code Act* (providing that fines levied under that Act are payable to the treasurer of the municipality within which the offence was committed) prevails over section 186 of the Metro Act which provides that fines otherwise belonging to an area municipality belong to Metro.

SECTION 14. The re-enactment of section 216 of the Act defines "total rateable property" to reflect the differential between the residential mill rate and the commercial mill rate.

SECTION 15. Until 1982, the Metropolitan Council was required to provide for reserves in its estimates "within such limits as to type and amount as the Ministry may approve". In 1982, the Act was amended and the provisions related to reserves was deleted. The re-enactment of subsection 218 (2) restores the requirement to provide for reserves but Ministry approval will not be required. This provision will be deemed to have come into force on the 1st day of January, 1975. This will have the effect of validating reserves that were provided for in the estimates after that date without Ministry approval.

SECTION 16. The amendments to section 219 of the Act are consequential on the incorporation of a definition of "total rateable property" in section 216 of the Act as set out in section 14 of the Bill.

SECTION 17.—Subsection 1. Sections 78a, 78b, 104a and 121 are added as sections of the *Municipal Act* that apply to the Metropolitan Corporation. The application of sections 78a and 78b will give to the Metropolitan Corporation and its local boards the same power to transfer documents to the Provincial Archivist as will be given to local municipalities and their local boards under amendments proposed to the *Municipal Act* by the enactment of those two sections. Under section 104a a municipality may enact enforceable bilingual by-laws and may conduct its proceedings in English or French or English and French. Section 121 permits a municipal council to pass by-laws for entering into and performing agreements with other municipalities with respect to joint works and undertakings.

Subsection 2. Obsolete references to the alteration of the boundaries of area municipalities are deleted.

Subsection 3. The re-enactment of subsection 245 (8) of the Act changes a reference to the *Mortmain and Charitable Uses Act* (now repealed) to a reference to section 6c of the *Charities Accounting Act*. That section authorizes a municipal corporation to hold lands for charitable purposes.

SECTION 18. References to the townships of Etobicoke and Scarborough are changed to read as references to the cities of Etobicoke and Scarborough.

SECTION 19. The re-enactment of section 264 of the Act deletes unnecessary references to the boroughs of Etobicoke, Scarborough and York. The effect of this section is to deem East York to be a city for the purposes of establishing speed limits under the *Highway Traffic Act*.

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Bill 61**1984**

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (a) and (h) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(a) "area municipality" means the municipality or corporation of the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto or the City of York;

(h) "Metropolitan Area" means the area from time to time included within the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto and the City of York.

2. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

(1) The area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan
Council
membership

the Borough of East York	—	2 members
the City of Etobicoke	—	5 members
the City of North York	—	10 members
the City of Scarborough	—	7 members

the City of Toronto	— 12 members
the City of York	— 3 members

3.—(1) Clause 11 (1) (c) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

(2) Clause 11 (1) (e) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

4.—(1) Subsection 17 (1) of the said Act is amended by striking out “63” in the first line.

(2) Subsection 17 (2) of the said Act is amended by striking out “64” in the first line.

5. Subsection 19 (1) of the said Act is amended by striking out “at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix” in the ninth, tenth and eleventh lines and inserting in lieu thereof “at such rate as the Metropolitan Council may by by-law establish”.

6. Section 24 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 14, section 2, is further amended by adding thereto the following subsection:

(2a) The Metropolitan Toronto Pension Plan and the Metropolitan Toronto Police Benefit Fund established by the Metropolitan Council pursuant to the provisions of this Act, shall, for the purposes only of acquiring, holding and disposing of land in their respective names to carry out the objects of the Plan and Fund, be deemed to be bodies corporate.

7.—(1) Subsection 27 (1) of the said Act is amended by striking out “Borough” in the second line and inserting in lieu thereof “City”.

(2) The said subsection 27 (1) is further amended by striking out “or Borough” in the third line.

8. Section 62 of the said Act is amended by striking out “not exceeding 25 per cent of the total cost thereof to the area municipality” in the fourth and fifth lines.

Funds
deemed
bodies
corporate

9. Paragraphs 2, 4 and 6 of clause 116 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 1, are repealed and the following substituted therefor:

2. The Board of Education for the City of Etobicoke.

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4. The Board of Education for the City of Scarborough.

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6. The Board of Education for the City of York.

10.—(1) Clauses 118 (1) (b), (d) and (f) of the said Act are repealed and the following substituted therefor:

(b) The Board of Education for the City of Etobicoke;

.

(d) The Board of Education for the City of Scarborough;

.

(f) The Board of Education for the City of York.

(2) Clause 118 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) for the cities of Toronto and Etobicoke and for the Borough of East York shall be two in each ward of the City or Borough, as the case may be.

11.—(1) Clauses 121 (2) (a) and (c) of the said Act are repealed and the following substituted therefor:

(a) one member of and appointed by The Board of Education for the City of Etobicoke;

.

(c) three members of and appointed by The Board of Education for the City of Scarborough.

(2) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3, is further amended by striking out "Borough" in the second line and in

the third line and inserting in lieu thereof in each instance "City".

12. Subsection 152 (5) of the said Act is amended by striking out "biennial" in the second line and inserting in lieu thereof "regular".

13. The said Act is amended by adding thereto the following sections:

Vesting of
certain trust
fund in
Metropolitan
Corporation

163a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1982, on the trust accounts of residents of Metropolitan Toronto Homes for the Aged, is vested in the Metropolitan Corporation for distribution of both the fund and interest accruing thereon by the Metropolitan Council in its absolute discretion for the general benefit of the residents of Metropolitan Toronto Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

Disposition
of fines
under
R.S.O. 1980,
c. 51

186a. Notwithstanding sections 186 and 260 of this Act, subsection 24 (5) of the *Building Code Act* prevails.

14. Section 216 of the said Act is repealed and the following substituted therefor:

Interpretation

216. In this Part,

R.S.O. 1980,
c. 359

- (a) "commercial assessment" has the same meaning as in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*;
- (c) "total rateable property",
 - (i) in relation to an area municipality, means the sum of,
 - (A) the product obtained by multiplying the residential and farm assessment by .85,
 - (B) the commercial assessment, and
 - (C) the valuations of all properties for which payments in lieu of taxes are paid by the

Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or by Ontario Hydro to any area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

15. Subsection 218 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 11, is repealed and the following substituted therefor:

(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves as the Metropolitan Council considers necessary.

Allowance
to be made
in estimates

16.—(1) Subsection 219 (5) of the said Act is repealed and the following substituted therefor:

(5) All other amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the total rateable property in each area municipality bears to the total rateable property in the Metropolitan Area.

Other
purposes

(2) Subsection 219 (9) of the said Act is repealed.

17.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 13, is repealed and the following substituted therefor:

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 78a, 78b, 104a, 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

Application
of
R.S.O. 1980,
c. 302

(2) Subsection 245 (2) of the said Act is repealed and the following substituted therefor:

(2) Sections 10 and 11 of the *Municipal Act* do not apply to any area municipality.

Exceptions

(3) Subsection 245 (8) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(8) The Metropolitan Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

18. Subsection 261 (1) of the said Act is amended by striking out "Township" in the third line, in the fourth line, in the eighth line and in the tenth line and inserting in lieu thereof in each instance "City".

19. Section 264 of the said Act is repealed and the following substituted therefor:

Borough
deemed to
be
city under
R.S.O. 1980,
c. 198,
s. 109

264. For the purpose of section 109 of the *Highway Traffic Act*, the Borough of East York shall be deemed to be a city.

Commence-
ment

20.—(1) This Act, except sections 14, 15 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Section 15 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

(3) Sections 14 and 16 shall be deemed to have come into force on the 1st day of January, 1984.

Short title

21. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984*.



Bill 61

*(Chapter 18
Statutes of Ontario, 1984)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	May 8th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	May 29th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 61

1984

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (a) and (h) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(a) "area municipality" means the municipality or corporation of the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto or the City of York;

.

(h) "Metropolitan Area" means the area from time to time included within the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto and the City of York.

2. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

(1) The area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan Council membership

the Borough of East York	—	2 members
the City of Etobicoke	—	5 members
the City of North York	—	10 members
the City of Scarborough	—	7 members

the City of Toronto — 12 members

the City of York — 3 members

3.—(1) Clause 11 (1) (c) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

(2) Clause 11 (1) (e) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

4.—(1) Subsection 17 (1) of the said Act is amended by striking out “63” in the first line.

(2) Subsection 17 (2) of the said Act is amended by striking out “64” in the first line.

5. Subsection 19 (1) of the said Act is amended by striking out “at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix” in the ninth, tenth and eleventh lines and inserting in lieu thereof “at such rate as the Metropolitan Council may by by-law establish”.

6. Section 24 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 14, section 2, is further amended by adding thereto the following subsection:

Funds
deemed
bodies
corporate

(2a) The Metropolitan Toronto Pension Plan and the Metropolitan Toronto Police Benefit Fund established by the Metropolitan Council pursuant to the provisions of this Act, shall, for the purposes only of acquiring, holding and disposing of land in their respective names to carry out the objects of the Plan and Fund, be deemed to be bodies corporate.

7.—(1) Subsection 27 (1) of the said Act is amended by striking out “Borough” in the second line and inserting in lieu thereof “City”.

(2) The said subsection 27 (1) is further amended by striking out “or Borough” in the third line.

8. Section 62 of the said Act is amended by striking out “not exceeding 25 per cent of the total cost thereof to the area municipality” in the fourth and fifth lines.

9. Paragraphs 2, 4 and 6 of clause 116 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 1, are repealed and the following substituted therefor:

2. The Board of Education for the City of Etobicoke.

.

4. The Board of Education for the City of Scarborough.

.

6. The Board of Education for the City of York.

10.—(1) Clauses 118 (1) (b), (d) and (f) of the said Act are repealed and the following substituted therefor:

(b) The Board of Education for the City of Etobicoke;

.

(d) The Board of Education for the City of Scarborough;

.

(f) The Board of Education for the City of York.

(2) Clause 118 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) for the cities of Toronto and Etobicoke and for the Borough of East York shall be two in each ward of the City or Borough, as the case may be.

11.—(1) Clauses 121 (2) (a) and (c) of the said Act are repealed and the following substituted therefor:

(a) one member of and appointed by The Board of Education for the City of Etobicoke;

.

(c) three members of and appointed by The Board of Education for the City of Scarborough.

(2) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3, is further amended by striking out "Borough" in the second line and in

the third line and inserting in lieu thereof in each instance "City".

12. Subsection 152 (5) of the said Act is amended by striking out "biennial" in the second line and inserting in lieu thereof "regular".

13. The said Act is amended by adding thereto the following sections:

Vesting of certain trust fund in Metropolitan Corporation

163a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1982, on the trust accounts of residents of Metropolitan Toronto Homes for the Aged, is vested in the Metropolitan Corporation for distribution of both the fund and interest accruing thereon by the Metropolitan Council in its absolute discretion for the general benefit of the residents of Metropolitan Toronto Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

.

Disposition of fines under R.S.O. 1980, c. 51

186a. Notwithstanding sections 186 and 260 of this Act, subsection 24 (5) of the *Building Code Act* prevails.

14. Section 216 of the said Act is repealed and the following substituted therefor:

Interpretation

216. In this Part,

R.S.O. 1980, c. 359

- (a) "commercial assessment" has the same meaning as in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*;
- (c) "total rateable property",
 - (i) in relation to an area municipality, means the sum of,
 - (A) the product obtained by multiplying the residential and farm assessment by .85,
 - (B) the commercial assessment, and
 - (C) the valuations of all properties for which payments in lieu of taxes are paid by the

Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or by Ontario Hydro to any area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

15. Subsection 218 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 11, is repealed and the following substituted therefor:

(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves as the Metropolitan Council considers necessary.

Allowance
to be made
in estimates

16.—(1) Subsection 219 (5) of the said Act is repealed and the following substituted therefor:

(5) All other amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the total rateable property in each area municipality bears to the total rateable property in the Metropolitan Area.

Other
purposes

(2) Subsection 219 (9) of the said Act is repealed.

17.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 13, is repealed and the following substituted therefor:

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 78a, 78b, 104a, 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

Application
of
R.S.O. 1980,
c. 302

(2) Subsection 245 (2) of the said Act is repealed and the following substituted therefor:

(2) Sections 10 and 11 of the *Municipal Act* do not apply to any area municipality.

Exceptions

(3) Subsection 245 (8) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(8) The Metropolitan Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

18. Subsection 261 (1) of the said Act is amended by striking out "Township" in the third line, in the fourth line, in the eighth line and in the tenth line and inserting in lieu thereof in each instance "City".

19. Section 264 of the said Act is repealed and the following substituted therefor:

Borough
deemed to
be
city under
R.S.O. 1980,
c. 198,
s. 109

264. For the purpose of section 109 of the *Highway Traffic Act*, the Borough of East York shall be deemed to be a city.

Commence-
ment

20.—(1) This Act, except sections 14, 15 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Section 15 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

(3) Sections 14 and 16 shall be deemed to have come into force on the 1st day of January, 1984.

Short title

21. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984*.

Bill 62

An Act to amend the Employment Standards Act

The Hon. R. H. Ramsay
Minister of Labour

1st Reading May 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 40a of the *Employment Standards Act* provides for the payment of severance pay where fifty or more employees have their employment terminated in a period of six months or less because of the permanent discontinuance of all or part of the employer's business.

The proposed amendments to section 40a will enable an employee to elect to be paid severance pay immediately upon the termination of employment and forfeit any right of recall or to elect to maintain the right of recall. Where the employee elects to retain the right of recall, the severance pay will be paid in trust to the Director and paid out to the employer or employee in accordance with the proposed subsection (9).

SECTION 2. The proposed subsection 51a (1) provides for the deposit of wages paid in trust to the Director pending a review under section 50 to be paid into an interest bearing account. The wages and the interest thereon will be paid out in accordance with the referee's order.

Under subsection 51a (2), a referee, in a hearing under section 51, will be able to direct the payment of interest on an award made in favour of an employee.

Bill 62

1984

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 40a (3) (c) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed.

(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by
employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of
election
to accept
severance
pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of
election to
maintain
right of
recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay; or
- (b) to the employee in any case other than that mentioned in clause (a), including the case where the

employee chooses to be paid severance pay and abandon the right to be recalled.

2. The said Act is amended by adding thereto the following section:

Interest on trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on award of a referee

(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Employment Standards Amendment Act, 1984.*

Bill 62

An Act to amend the Employment Standards Act

The Hon. R. H. Ramsay
Minister of Labour

1st Reading May 10th, 1984
2nd Reading June 13th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Section 40a of the *Employment Standards Act* provides for the payment of severance pay where fifty or more employees have their employment terminated in a period of six months or less because of the permanent discontinuance of all or part of the employer's business.

The proposed amendments to section 40a will enable an employee to elect to be paid severance pay immediately upon the termination of employment and forfeit any right of recall or to elect to maintain the right of recall. Where the employee elects to retain the right of recall or fails to make an election, the severance pay will be paid in trust to the Director and paid out to the employer or employee in accordance with the proposed subsection (9).

SECTION 2. The proposed subsection 51a (1) provides for the deposit of wages paid in trust to the Director pending a review under section 50 to be paid into an interest bearing account. The wages and the interest thereon will be paid out in accordance with the referee's order.

Under subsection 51a (2), a referee, in a hearing under section 51, will be able to direct the payment of interest on an award made in favour of an employee.

Bill 62**1984****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 40a (3) (c) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed.

(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by
employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of
election
to accept
severance
pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of
election to
maintain
right of
recall

(a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay;

(b) to the employer, where during the period of twelve months from the termination the employee advises

the Director in writing that the employee elects to retain the right to be recalled and in such case the employee shall be deemed to have abandoned the right to severance pay; or

- (c) to the employee in any case other than a case mentioned in clause (a) or (b) and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

2. The said Act is amended by adding thereto the following section:

Interest on trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on award of a referee

(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Employment Standards Amendment Act, 1984.*

Bill 62

*(Chapter 31
Statutes of Ontario, 1984)*

An Act to amend the Employment Standards Act

The Hon. R. H. Ramsay
Minister of Labour

<i>1st Reading</i>	May 10th, 1984
<i>2nd Reading</i>	June 13th, 1984
<i>3rd Reading</i>	June 27th, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 62

1984

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 40a (3) (c) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed.

(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of election to accept severance pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of election to maintain right of recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay;
- (b) to the employer, where during the period of twelve months from the termination the employee advises

the Director in writing that the employee elects to retain the right to be recalled and in such case the employee shall be deemed to have abandoned the right to severance pay; or

- (c) to the employee in any case other than a case mentioned in clause (a) or (b) and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

2. The said Act is amended by adding thereto the following section:

Interest on
trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on
award of a
referee

(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Employment Standards Amendment Act, 1984*.

Bill 63

An Act to revise the Surveyors Act

The Hon. A. W. Pope
Minister of Natural Resources

1st Reading May 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill revises the *Surveyors Act*. The main features of the Bill are:

1. The members of the Association of Ontario Land Surveyors will be composed of two groups. The first group will be those who are licensed under the Bill and the second group will be those who hold certificates of registration.
2. The Bill recognizes that professional surveying is divided into the fields of cadastral surveying, photogrammetry, geodesy and hydrography.
3. A licence will be required to practise cadastral surveying (the conducting of surveys to establish, locate, define or describe lines, boundaries or corners of parcels of land).
4. A certificate of authorization will be required to provide to the public services that are part of the practice of cadastral surveying.
5. Persons who are qualified to practise professional surveying in the fields of photogrammetry, geodesy and hydrography will be entitled to certificates of registration in the Association.
6. The establishment of the Registration Committee to hear matters related to licences, certificates of authorization and certificates of registration. However, determinations as to academic and experience requirements for licensing will be made by the Associations Committee on Academic and Experience Requirements.
7. The establishment of the Complaints Committee, to consider and investigate complaints regarding members of the Association (including holders of certificates of registration) and holders of certificates of authorization. The Complaints Committee will have power to refer matters to the Discipline Committee.
8. The establishment of the Discipline Committee, to hear and determine specific allegations of professional misconduct and incompetence, with power to impose a wide range of penalties and provision for appeal to the Divisional Court.
9. The establishment of the Fees Mediation Committee, to mediate complaints in respect of fees.
10. The establishment of the office of Complaints Review Councillor with power to examine the procedures for the treatment of complaints and to review the treatment of specific complaints.
11. The authority of the Council of the Association to make regulations will be subject to the approval of the Lieutenant Governor in Council and to prior review by the Minister. Notice and comment provisions are included in the regulation-making procedure. In addition, the Minister may advise the Council with respect to the implementation of the Act and the regulations.

Bill 63**1984****An Act to revise the Surveyors Act****CONTENTS**

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21. Complaints Committee	46. Repeal and references
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "Association" means Association of Ontario Land Surveyors;

- (b) "by-laws" means by-laws made under this Act;
- (c) "certificate of authorization" means certificate of authorization issued under this Act to provide to the public services that are part of the practice of cadastral surveying;
- (d) "certificate of registration" means certificate of registration issued under this Act authorizing the holder to hold himself out as a member of the Association;
- (e) "Council" means Council of the Association;
- (f) "graphic representation" means a representation produced by an electrical, electronic, photographic or printing method and includes a representation produced on a video display terminal;
- (g) "licence" means licence issued under this Act to engage in the practice of cadastral surveying;
- (h) "licensed", in relation to a person, means the person is the holder of a licence;
- (i) "Minister" means the Minister of Natural Resources or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (j) "practice of cadastral surveying" means advising on, reporting on, conducting or supervising the conducting of surveys to establish, locate, define or describe lines, boundaries or corners of parcels of land or land covered with water;
- (k) "practice of professional land surveying" means the determination of natural and man-made features of the surface of the earth and the storage and representation of such features on a chart, map, plan or graphic representation, and includes the practice of cadastral surveying;
- (l) "Registrar" means Registrar of the Association;
- (m) "regulations" means regulations made under this Act.

2.—(1) The Association of Ontario Land Surveyors, a body corporate, is continued as a corporation without share capital. Association

(2) The principal object of the Association is to regulate the practice of professional land surveying and to govern its members and holders of certificates of authorization in accordance with this Act, the regulations and the by-laws in order that the public interest may be served. Principal object

(3) For the purpose of carrying out its principal object, the Association has the following additional objects: Additional objects

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and practice for the practice of professional land surveying.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To promote public awareness of the role of the Association.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs. Council

- (2) The Council shall be composed of, Composition of Council
- (a) six persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;
 - (b) the president and the vice-president, each of whom shall be elected annually by and from among the members of the Association as provided by the regulations;
 - (c) the immediate past president;
 - (d) the Surveyor General;

- (e) two persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (f) one person who is not licensed under this Act and who is a barrister and solicitor of at least ten years standing in Ontario and who is appointed by the Lieutenant Governor in Council.

Term of
appointed
member

(3) A person appointed under clause (2) (e) or (f) shall be appointed for a term of not more than three years.

Reappointment

(4) A person appointed under clause (2) (e) or (f) may be reappointed for one or more terms of not more than three years each.

Remuneration
of appointed
member

(5) A person appointed under clause (2) (e) or (f) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as are determined by the Lieutenant Governor in Council.

Idem

(6) No person shall be elected or appointed to the Council unless he is a Canadian citizen.

Qualifica-
tions to
vote

(7) Every member of the Association who is not in default of payment of the annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council.

Registrar
and staff

(8) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association.

Quorum

(9) A majority of the members of the Council constitutes a quorum.

Vacancies

(10) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum.

Filling
of
vacancy

(11) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled by a member of the Association,

- (a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the

member so appointed shall be deemed to be an elected member of the Council; or

- (b) where no quorum of the Council remains in office, elected in accordance with the regulations,

and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.

(12) The Council shall meet at least four times a year.

Meetings of Council

(13) The members of the Council who were elected and in office immediately before this Act comes into force shall continue in office and shall be deemed to be the members referred to in clauses (2) (a) and (b) until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation of Council members

4. The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting.

Annual meetings

5.—(1) Every person licensed by the Association is a member of the Association, subject to any term, condition or limitation to which the licence is subject.

Membership

(2) Every person who is the holder of a certificate of registration is a member of the Association subject to any term, condition or limitation to which the certificate of registration is subject.

Idem

(3) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

Resignation of membership

6. In addition to his other powers and duties under this Act, the Minister may,

Powers of Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the

Council to implement policies and to enforce its regulations and procedures.

Regulations

7.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. defining constituencies and prescribing the number of representatives on the Council of each constituency;
2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the committees and procedures ancillary to those specified in this Act in respect of any committee;
5. respecting matters of practice and procedure before committees required under this Act not inconsistent with this Act and the *Statutory Powers Procedure Act*;
6. prescribing the quorums of the committees required by this Act, except the Complaints Committee and the Discipline Committee;
7. prescribing classes of persons whose interests are related to those of the Association and the privileges of persons in the classes in relation to the Association;
8. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of authorization and certificates of registration, and the requirements and qualifications therefor, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination set or approved by the Council as

- a licensing requirement or as a requirement for a certificate of registration,
- ii. the curricula and standards of professional training programs offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs,
 - iv. the academic and experience requirements for the issuance of a licence, and
 - v. the academic and experience requirements for the issuance of a certificate of registration;
9. prescribing terms and conditions of licences, certificates of authorization or certificates of registration;
 10. prescribing forms of applications for licences, certificates of authorization and certificates of registration and requiring their use;
 11. for the purposes of section 14, prescribing a proportion greater than 70 per cent of the shares of corporations that engage in the business of providing services that are within the practice of cadastral surveying;
 12. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of authorization, and prescribing and requiring the use of forms of such returns;
 13. requiring and governing the signing and sealing of documents and drawings by members of the Association or by members entered on a specific register of the Association, specifying the forms of seals and respecting the issuance and ownership of seals;
 14. requiring the making of returns of information by members of the Association and holders of certificates of authorization in respect of names, addresses, telephone numbers, associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;

15. governing the use of names and designations in the practice of professional land surveying by members of the Association and holders of certificates of authorization;
16. providing for the maintenance and inspection of registers of persons permitted to engage in the practice of professional land surveying;
17. prescribing and governing standards of practice and performance standards for the practice of professional land surveying;
18. providing for the setting of schedules of suggested fees for the practice of professional land surveying and for the publication of the schedules;
19. respecting the advertising of the practice of professional land surveying;
20. prescribing a code of ethics;
21. defining professional misconduct for the purposes of this Act;
22. providing for the designation of members of the Association as specialists, prescribing the qualifications and requirements for designation as a specialist, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association;
23. providing for inspection programs related to the practice of professional land surveying, including programs for the inspection of records, other than financial records, of members of the Association and holders of certificates of authorization;
24. providing for the compilation of statistical data on the supply, distribution and professional activities of members of the Association and holders of certificates of authorization and on remuneration for the practice of professional land surveying and requiring members of the Association and holders of certificates of authorization to provide the information necessary to compile such statistics, but persons engaged in the administration of this Act shall maintain secret the names of persons providing the

information as a matter that comes to their knowledge in the course of their duties under this Act;

25. requiring members of the Association or holders of certificates of authorization, or both of them, to obtain and to maintain insurance against liability that may be incurred in the practice of professional land surveying, respecting the terms and conditions and prescribing the minimum amounts of such insurance, requiring such members and holders to provide to the Registrar proof of the insurance coverage, and respecting the form of the proof and the times when the proof shall be provided;
26. providing for the entering into of arrangements by the Association for its members and holders of certificates of authorization respecting indemnity for professional liability and requiring the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members of the Association and holders of certificates of authorization in respect of professional liability;
27. exempting any class of members or holders of certificates of authorization from the requirement to be insured in respect of professional liability, and classifying members or holders of certificates of authorization for the purpose of such exemption;
28. requiring members of the Association or holders of certificates of authorization, or both, to inform the Registrar in respect of claims or impending claims against them for professional liability;
29. prohibiting or regulating the practice of professional land surveying where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
30. providing for a program of continuing education of members of the Association;
31. respecting the duties and authority of the Registrar;
32. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence or a certificate of authorization that was cancelled by the Registrar;

33. classifying and exempting any class of holders of licences, certificates of registration or certificates of authorization from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
34. prescribing any matter referred to in this Act as prescribed by the regulations.

Confirmation
by members

(2) The Council shall not request that the Lieutenant Governor in Council approve a regulation passed by the Council until the regulation is confirmed by the members of the Association.

Voting

(3) The members of the Association may confirm a regulation by a majority of those voting,

- (a) at an annual meeting;
- (b) at a general meeting of the Association called for the purpose; or
- (c) by means of a vote conducted by mail.

Distribution
of
regulations

- (4) A copy of each regulation made under subsection (1),
- (a) shall be forwarded to each member of the Association and to each holder of a certificate of authorization; and
 - (b) shall be available for public inspection in the office of the Association.

By-laws

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

1. prescribing the seal of the Association;
2. providing for the execution of documents by the Association;
3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;

5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council;
6. providing for meetings of the Council and committees, except in a proceeding in respect of a licence or a certificate of authorization or a certificate of registration, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
7. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence or a certificate of authorization or a certificate of registration, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
8. respecting the calling, holding and conducting of meetings of the membership of the Association;
9. prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
10. delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
11. prescribing the positions and qualifications of officers of the Association, providing procedures for their selection and the filling of vacancies in the offices of the Association, and prescribing the duties of officers of the Association;
12. providing for the appointment of inspectors for the purposes of this Act;
13. prescribing forms and providing for their use;

14. providing procedures for the making, amending and revoking of the by-laws;
15. respecting management of the property of the Association;
16. providing for the appointment, composition, powers and duties of additional or special committees;
17. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
18. respecting the borrowing of money by the Association and the giving of security therefor;
19. respecting membership of the Association in other organizations, the payment of annual assessments and provision for representatives at meetings;
20. authorizing the making of grants for any purpose that may tend to advance knowledge of professional land surveying education, or maintain or improve the standards of practice in professional land surveying or support and encourage public information and interest in the role of professional land surveying in society;
21. respecting scholarships, bursaries and prizes related to the study of professional land surveying;
22. prescribing the amounts of and requiring the payment of annual fees by members of the Association and holders of certificates of authorization and by students and members of related classes recognized by the Association, and fees for licensing, certification, registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
23. providing for the establishment of group insurance plans, other than for professional liability, in which members of the Association may participate on a voluntary basis;

24. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

(2) A by-law passed by the Council is not effective until confirmed by the members of the Association. Confirmation
by members

(3) The members of the Association may confirm a by-law by a majority of those voting, Voting

(a) at an annual meeting;

(b) at a general meeting of the Association called for the purpose; or

(c) by means of a vote conducted by mail.

(4) A copy of the by-laws made under subsection (1) and amendments thereto, Distribution
of by-laws

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the Association.

9.—(1) The Council shall establish and appoint as provided in this Act the following committees: Committees

(a) Executive Committee;

(b) Academic and Experience Requirements Committee;

(c) Registration Committee;

(d) Complaints Committee;

(e) Discipline Committee;

(f) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than a quorum of the committee. Vacancies

Executive
Committee

10.—(1) The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council, other than to make, amend or revoke a regulation or a by-law.

Urgent
matters

(2) Subject to ratification by the Council at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or a by-law.

Cadastral
surveying,
licence
required

11.—(1) No person shall engage in the practice of cadastral surveying or hold himself out as engaging in the practice of cadastral surveying unless licensed under this Act.

Certificate
of
authorization

(2) No person shall provide to a member of the public a service that is part of the practice of cadastral surveying except under and in accordance with a certificate of authorization.

Proof of
practice

(3) For the purposes of subsections (1) and (2), proof of the performance of one act in the practice of cadastral surveying on one occasion is sufficient to establish engaging in the practice of cadastral surveying.

Certificate
of
registration

(4) No person shall hold himself out as the holder of a certificate of registration unless such person is the holder of a certificate of registration issued under this Act.

Issuance
of licence

12.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

- (a) is a citizen of Canada or has the status of a permanent resident of Canada;
- (b) is not less than eighteen years of age;
- (c) has complied with the academic requirements specified in the regulations for the issuance of the licence and has passed such examinations as the Council has set or approved in accordance with the regulations or is exempted therefrom by the Council;
- (d) has complied with the experience requirements specified in the regulations for the issuance of the licence; and
- (e) is of good character.

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of cadastral surveying in accordance with the law and with honesty and integrity.

Grounds for refusal to issue licence

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence to the Academic and Experience Requirements Committee for a determination as to whether or not the applicant has met the academic requirements or the experience requirements or both prescribed by the regulations for the issuance of the licence.

Referral to Committee on Academic and Experience Requirements

(4) A determination by the committee under subsection (3) is final and is binding on the Registrar and on the applicant.

Determination by committee

(5) The committee is not required to hold or to afford to any person a hearing or an opportunity to make submissions before making a determination under subsection (3).

Hearing

(6) The Registrar shall give notice to the applicant of a determination by the committee under subsection (3).

Notice of determination

13. A corporation that holds a certificate of authorization may provide services that are within the practice of cadastral surveying.

Corporation

14.—(1) The Registrar shall issue a certificate of authorization to a licensed member of the Association who applies therefor in accordance with the regulations and who meets the requirements and qualifications prescribed by the regulations for the issuance of the certificate of authorization.

Issuance of certificate of authorization

(2) The Registrar shall issue a certificate of authorization to a corporation that applies therefor in accordance with the regulations and meets the following requirements:

Issuance of certificate of authorization to corporation

1. The primary function of the corporation must be to engage in the business of providing services that are within the practice of cadastral surveying.
2. At least one director or full-time employee of the corporation must be a licensed member of the Association who holds a certificate of authorization and who agrees to personally supervise and direct the practice of cadastral surveying for the corporation.

3. Not less than 70 per cent of each class of shares of the corporation must be owned by and registered in the name of one or more licensed members of the Association.

Issuance of
certificate
of
authorization

(3) The Registrar shall issue a certificate of authorization to a partnership of licensed members of the Association that applies therefor in accordance with the regulations and that proposes to engage in the practice of cadastral surveying.

Past
conduct

(4) The Registrar may refuse to issue or may suspend or revoke a certificate of authorization where,

- (a) the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant for or the holder of the certificate of authorization or the past conduct of a person who is in a position of authority or responsibility in the operation of the business of the applicant for or the holder of the certificate of authorization affords grounds for the belief that the applicant or holder will not engage in the business of providing services that are within the practice of cadastral surveying in accordance with the law and with honesty and integrity; or
- (b) the holder of the certificate of authorization does not meet the requirements or the qualifications for the issuance of the certificate of authorization set out in the regulations; or
- (c) there is a breach of a condition of the certificate of authorization.

Refusal or
revocation

(5) The Registrar may refuse to issue a certificate of authorization to a licensed member of the Association or may revoke a certificate of authorization held by a licensed member of the Association where the Registrar is of the opinion, upon reasonable and probable grounds, that the member has not engaged in the practice of cadastral surveying during the period of five years preceding the date of the refusal or revocation.

Supervision
by Ontario
land surveyor

15.—(1) A natural person, a partnership or a corporation that engages in the business of providing services that are within the practice of cadastral surveying under the authority of a certificate of authorization shall provide the services only under the personal supervision and direction of a licensed member of the Association.

(2) A member of the Association who personally supervises and directs the providing of services within the practice of cadastral surveying by a holder of a certificate of authorization or who assumes responsibility for and supervises the practice of cadastral surveying related to the providing of services by a holder of a certificate of authorization is subject to the same standards of professional conduct and competence in respect of the services and the related practice of cadastral surveying as if the services were provided or the practice of cadastral surveying was engaged in by the member of the Association.

Professional responsibility of supervising Ontario land surveyor

16.—(1) The Registrar shall issue a certificate of registration in a branch of professional land surveying to an applicant therefor who meets the requirements and qualifications prescribed by the regulations in relation to the branch.

Certificate of registration

(2) Subsection (1) applies in respect of professional land surveying in the branches of photogrammetry, geodesy and hydrography and such other branches as are prescribed by the regulations but does not apply in respect of cadastral surveying.

Idem

17.—(1) Where the Registrar proposes,

Hearing by Registration Committee

- (a) to refuse an application for a licence, a certificate of authorization or a certificate of registration;
- (b) to revoke a certificate of authorization or a certificate of registration; or
- (c) to issue a licence, a certificate of authorization or a certificate of registration subject to terms, conditions or limitations,

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant.

(2) Subsection (1) does not apply in respect of a refusal to issue a licence or a certificate of registration to a person who was previously licensed or who previously held a certificate of registration and whose licence or certificate of registration was suspended or revoked as a result of a decision of the Discipline Committee.

Exceptions

(3) Subsection (1) does not apply in respect of a refusal to issue a certificate of authorization to a person or a partnership that previously held a certificate of authorization and whose certificate of authorization was suspended or revoked as a result of a decision of the Discipline Committee.

Idem

Notice

(4) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee, and the applicant may so require such a hearing.

Power of Registrar where no hearing

(5) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (4), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(6) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (1), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Disability of member

(7) Where the Registration Committee commences a hearing and a member of the Registration Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Continuation on expiry of committee membership

(8) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Powers of Registration Committee re licences

(9) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a licence, the Registration Committee by order may,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a licence to the applicant;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,

- (i) direct the Registrar to refuse to issue a licence to the applicant, or
- (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of cadastral surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications of this Act and the regulations and direct the Registrar to issue a licence; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of cadastral surveying with competence and integrity,
 - (i) require the applicant to take and successfully complete such examinations as the Registration Committee may set or approve and to pay such fees therefor as the Registration Committee fixes,
 - (ii) require the applicant to take such additional training as the Registration Committee specifies, or
 - (iii) direct the Registrar to issue a licence subject to such terms, conditions and limitations as the Registration Committee specifies.

(10) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a certificate of authorization, the Registration Committee by order may,

Powers of
Registration
Committee re
certificates of
authorization

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a certificate of authorization to the applicant or to not revoke the certificate of authorization held by the applicant, as the case requires;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,

- (i) direct the Registrar to refuse to issue a certificate of authorization to the applicant or to revoke the certificate of authorization held by the applicant, or
- (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications of this Act and the regulations and direct the Registrar to issue a certificate of authorization to the applicant or to not revoke the certificate of authorization held by the applicant, as the case requires; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a certificate of authorization subject to such terms, conditions and limitations as the Registration Committee specifies.

Powers of
Registration
Committee re
certificates of
registration

(11) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a certificate of registration, the Registration Committee by order may,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications prescribed by the regulations, direct the Registrar to issue a certificate of registration to the applicant or to not revoke the certificate of registration held by the applicant, as the case requires;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications prescribed by the regulations,
 - (i) direct the Registrar to refuse to issue a certificate of registration to the applicant or to revoke the certificate of registration held by the applicant, as the case requires, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will

engage in the practice of professional surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications prescribed by the regulations and direct the Registrar to issue a certificate of registration to the applicant or to not revoke the certificate of registration held by the applicant, as the case requires; or

(c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of professional surveying with competence and integrity, direct the Registrar to issue a certificate of registration to the applicant subject to such terms, conditions and limitations as the Registration Committee specifies.

(12) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Extension of time for requiring hearing

(13) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Parties

(14) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements in respect of the licence, the certificate of authorization or the certificate of registration, as the case requires.

Opportunity to show compliance

(15) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(16) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for both parties to participate, but the Registra-

Members holding hearing not to have taken part in investigation, etc.

- (i) direct the Registrar to refuse to issue a certificate of authorization to the applicant or to revoke the certificate of authorization held by the applicant, or
- (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications of this Act and the regulations and direct the Registrar to issue a certificate of authorization to the applicant or to not revoke the certificate of authorization held by the applicant, as the case requires; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a certificate of authorization subject to such terms, conditions and limitations as the Registration Committee specifies.

Powers of
Registration
Committee re
certificates of
registration

(11) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a certificate of registration, the Registration Committee by order may,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications prescribed by the regulations, direct the Registrar to issue a certificate of registration to the applicant or to not revoke the certificate of registration held by the applicant, as the case requires;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications prescribed by the regulations,
 - (i) direct the Registrar to refuse to issue a certificate of registration to the applicant or to revoke the certificate of registration held by the applicant, as the case requires, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will

engage in the practice of professional surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications prescribed by the regulations and direct the Registrar to issue a certificate of registration to the applicant or to not revoke the certificate of registration held by the applicant, as the case requires; or

- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of professional surveying with competence and integrity, direct the Registrar to issue a certificate of registration to the applicant subject to such terms, conditions and limitations as the Registration Committee specifies.

(12) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Extension of time for requiring hearing

(13) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Parties

(14) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements in respect of the licence, the certificate of authorization or the certificate of registration, as the case requires.

Opportunity to show compliance

(15) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(16) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for both parties to participate, but the Registra-

Members holding hearing not to have taken part in investigation, etc.

tion Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(17) The oral evidence taken before the Registration Committee at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only
members
at hearing
to participate
in decision

(18) No member of the Registration Committee shall participate in a decision of the Registration Committee following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(19) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Registration Committee within a reasonable time after the matter in issue has been finally determined.

Registers

18.—(1) The Registrar shall maintain registers in which is entered every person who is a member of the Association and every holder of a certificate of authorization.

Notation as
to terms,
conditions,
limitations

(2) The Registrar shall note in the registers the terms, conditions and limitations attached to each licence, certificate of authorization and certificate of registration.

Notation
as to
revocation,
suspension,
etc.

(3) The Registrar shall note in the registers every revocation, suspension and cancellation or termination of a licence, certificate of authorization or certificate of registration.

Notation as
to other
information

(4) The Registrar shall note in the registers such other information as the Registration Committee or the Discipline Committee directs.

Inspection

(5) Any person has the right to inspect during normal business hours the registers maintained by the Registrar.

Copies

(6) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar.

Continuation
of
memberships

19.—(1) Every member of the Association under the *Surveyors Act*, being chapter 492 of the Revised Statutes of Ontario, 1980, immediately before this Act comes into force shall be deemed to be licensed in the same manner as if issued a licence under this Act.

(2) Every certificate of authorization issued under the said Act and in effect immediately before this Act comes into force continues in the same manner as if issued under this Act.

Continuation of certificates of authorization

(3) Subsection (2) applies in the case of a corporation notwithstanding that the corporation does not comply with the requirement that not less than 70 per cent of each class of shares of the corporation must be owned by and registered in the name of one or more licensed members of the Association, if a majority of each class of shares of the corporation is owned by and registered in the name of one or more members of the Association.

Idem, corporations

20.—(1) The Registrar may cancel a licence, a certificate of authorization or a certificate of registration for non-payment of any fee prescribed by the by-laws after giving the member or the holder of the certificate of authorization at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member or holder.

Cancellation for default of fees

(2) A person who was a member or a holder of a certificate of authorization whose licence, certificate of authorization or certificate of registration was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of authorization or certificate of registration reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Reinstatement

21.—(1) The Complaints Committee shall be composed of,

Complaints Committee

- (a) at least one member of the Council who was elected to the Council;
- (b) at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (c) such other members of the Association as may be appointed by the Council.

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Idem

(3) The Council shall name one member of the Complaints Committee to be chairman.

Chairman

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person elected to the Council, constitute a quorum.

Duties of
Complaints
Committee

22.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of any member of the Association but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

Decision
and
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor.

Notice

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 24.

Complaints
Review
Councillor

23.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council.

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee.

Idem

(3) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association and, as mentioned in section 24, may review the treatment by the Association of individual complaints.

Examination and review by Complaints Review Councillor

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

Complaints Review Councillor not to inquire into merit of complaint

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

Discretionary power of Complaints Review Councillor

(a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or

(b) in the opinion of the Complaints Review Councillor,

(i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or

(ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Notice

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

Office accommodation

Privacy

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private.

Receipt of information

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit.

Hearing not required

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in relation to an examination, review or report in respect of the Association.

Duty to furnish information

(11) Every person who is,

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

Report by Complaints Review Councillor

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association.

Report following upon examination

(13) Where the report follows upon an examination of the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council.

Report following upon review

(14) Where the report follows upon a review as to the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against.

Report to Minister

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister where, in the opinion of the Complaints Review Council-

lor, the report should be brought to the attention of the Minister.

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Recommendations

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Consideration by Council

24.—(1) Where a complaint respecting a member of the Association or a holder of a certificate of authorization has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Registrar, upon application by the complainant or on his own initiative, the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee.

Review by Complaints Review Councillor

(2) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint.

Application to Complaints Review Councillor

25.—(1) The Discipline Committee shall be composed of,

Discipline Committee

- (a) the persons appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) Three members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Quorum and votes

(3) Where the Discipline Committee commences a hearing and a member of the Discipline Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Disability of member

Chairman

(4) The Council shall name one member of the Discipline Committee who is a member of and elected to the Council to be chairman.

Reference
by Council
or Executive
Committee

(5) The Council, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of authorization specified in the resolution.

Duties of
Discipline
Committee

26.—(1) The Discipline Committee shall,

- (a) when so directed by the Council or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association;
- (b) hear and determine matters referred to it under section 22, 25 or 34; and
- (c) perform such other duties as are assigned to it by the Council.

Professional
misconduct

(2) A member of the Association may be found guilty of professional misconduct by the Committee if,

- (a) the member has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(3) The Discipline Committee may find a member of the Association to be incompetent if in its opinion,

- (a) the member has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public the member serves of a nature or to an extent that demonstrates the member is unfit to carry out the responsibilities of a person engaged in the practice of professional land surveying; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that the member no longer be permitted to engage in the practice of professional land

surveying or that his practice of professional land surveying be restricted or, in the case of a member other than a licensed member, that the membership of the member be revoked or be restricted.

(4) Where the Discipline Committee finds a member of the Association guilty of professional misconduct or incompetence it may, by order,

Powers of
Discipline
Committee

- (a) revoke the licence or certificate of registration, as the case may be, of the member;
- (b) suspend the licence or certificate of registration, as the case may be, of the member for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member to limit the professional work of the member or holder in the practice of professional land surveying to the extent specified in the undertaking;
- (d) impose terms, conditions and limitations on the licence or certificate of registration, as the case may be, of the member, including but not limited, in the case of a member, to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence or certificate of registration, as the case may be, or on the certificate of authorization, including but not limited to,
 - (i) requiring the member to engage in the practice of professional land surveying only under the personal supervision and direction of another member,
 - (ii) requiring the member to not alone engage in the practice of professional land surveying,
 - (iii) requiring the member to accept periodic inspections by the Discipline Committee or its delegate of the books, accounts, records and designs of the member in connection with his practice,
 - (iv) requiring the member to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such

matters in respect of the member's practice for such period of time, at such times and in such form, as the Discipline Committee may specify;

- (f) require that the member be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register;
- (g) revoke or suspend for a stated period of time the designation of the member by the Association as a specialist in any branch of professional land surveying;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) require the member to repay, waive or reduce the fee charged by the member in respect of the practice of professional land surveying related to the finding of professional misconduct or incompetence;
- (j) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in an official publication of the Association in detail or in summary and either with or without including the name of the member;
- (k) fix and impose costs to be paid by the member to the Association;
- (l) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose as may be specified by the Discipline Committee, including but not limited to,
 - (i) the successful completion by the member of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence or certificate of registration to be published, with or without the reasons therefor, in an official publication of the Association together with the name of the holder of the revoked or suspended licence, certificate of authorization or certificate of registration.

Publication of revocation or suspension

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in an official publication of the Association, upon the request of the member against whom the allegation was made.

Publication on request

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member for his costs or such portion thereof as the Discipline Committee fixes and the Association shall comply with the order.

Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence or certificate of registration on the ground of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts a licence or certificate of registration on a ground other than incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Service of decision of Discipline Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Com-

Continuation on expiry of Committee membership

mittee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Discipline proceedings, parties

27.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination of documentary evidence

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(3) A member of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Discipline Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

In camera
R.S.O. 1980,
c. 484

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar at least five days before the day fixed for the hearing, the Discipline Committee shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties at their own cost.

Evidence
R.S.O. 1980,
c. 484

(6) Notwithstanding section 15 of the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Disci-

pline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

28.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Appeal to court

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Certified copy of record

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing in whole or in part, in accordance with such directions as the court considers proper.

Powers of court on appeal

29.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Fees Mediation Committee

(2) The Fees Mediation Committee,

Duties of Fees Mediation Committee

(a) shall hear and mediate any written complaint by a client of a member of the Association or of a holder of a certificate of authorization in respect of a fee charged for services in the practice of professional land surveying provided to the client; and

(b) shall perform such other duties as are assigned to it by the Council.

Arbitration
by Fees
Mediation
Committee

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of authorization and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Application
of
R.S.O. 1980,
c. 25
Enforcement

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Registrar's
investigation

30.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association has committed an act of professional misconduct or incompetence or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization, the Registrar by order may appoint one or more persons to make an investigation to ascertain whether such act has occurred or there is such cause, and the person or persons appointed shall report the result of the investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of authorization in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of authorization whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force, if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order. *Execution of order*

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued. *Expiry of order*

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of authorization whose affairs are being investigated. *Ex parte application*

(8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under this section relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated. *Removal of books, etc.*

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents. *Admissibility of copies*

Report of
Registrar

(10) The Registrar shall report the results of the investigation to the Council or such committee as the Registrar considers appropriate.

Information
re insurance
claims,
interpretation

31.—(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of professional land surveying.

Information

(2) Upon the request of the Registrar, an insurer shall furnish to the Registrar any information that is in the possession of the insurer and that is specified in the request related to a claim or claims for indemnity in respect of the practice of professional land surveying.

Exception

(3) Subsection (2) does not apply in relation to medical information in respect of a person unless the person or, in the case of a minor, a parent or other person who has lawful custody of the minor consents to the furnishing of the information.

Transmittal
of
information

(4) The Registrar may forward any information referred to in subsection (2) to such committee as he considers appropriate.

Professional
liability
insurance

32.—(1) No member of the Association or holder of a certificate of authorization shall engage in the practice of professional land surveying unless insured against professional liability in accordance with the regulations or in accordance with arrangements under subsection (2).

Arrange-
ments by
Association

(2) The Association may make arrangements respecting insurance against professional liability for members of the Association and holders of certificates of authorization.

Premiums

(3) Arrangements under subsection (2) may include arrangements respecting the payment and remission of premiums.

Levies

(4) The Association may prescribe levies that shall be paid by members of the Association and holders of certificates of authorization related to arrangements under subsection (2).

Surrender of
cancelled
licence,
etc.

33. Where a licence, certificate of authorization or certificate of registration is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate and related seal to the Registrar.

Restoration
of licence,
etc.

34.—(1) A person whose licence, certificate of authorization or certificate of registration has been revoked for cause under this Act, or whose membership has been cancelled for

cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of authorization or certificate of registration, but such application shall not be made sooner than two years after the revocation or cancellation.

(2) The Registrar shall refer the application to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the applicant.

Reference to
Discipline
Committee

(3) The provisions of this Act applying to hearings by the Registration Committee, except section 28, apply with necessary modifications to proceedings of the Discipline Committee under this section.

Procedures

(4) Notwithstanding subsections (1), (2) and (3), the Council may direct at any time that a licence, certificate of authorization or certificate of registration be issued to a person whose licence, certificate of authorization or certificate of registration has previously been revoked for cause or suspended for cause or that a suspension or cancellation for cause under a predecessor of this Act be removed, subject to such terms, conditions and limitations as the Council considers appropriate.

Direction
by Council
to issue
licence

35.—(1) Every person engaged in the administration of this Act, including any person making a review or investigation under section 24 or 30, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

Confidentiality

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations.

Testimony
in civil
action

Use of
"O.L.S." by
corporation

36.—(1) A corporation whose name includes the title "Ontario land surveyor" or the initials "O.L.S." and that ceases to hold a subsisting certificate of authorization shall not carry on or engage in any business until the title "Ontario land surveyor" or the initials "O.L.S." are removed from the name of the corporation.

Exception

(2) Subsection (1) does not apply to prevent a corporation from carrying on an activity necessary to the winding up of the corporation.

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

37. Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Association may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will result or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Penalties

38.—(1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Idem

(2) Every person who is not a member of the Association and who uses the title "Ontario land surveyor" or the initials "O.L.S." as an occupational designation is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(3) Every person who obstructs a person appointed to make an investigation under section 30 in the course of his duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem

(4) Every corporation that contravenes section 36 is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

(6) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4) or (5) after two years after the date on which the offence was, or is alleged to have been, committed.

Limitation

39.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate of authorization or certificate of registration or a false document with respect to a register maintained by the Registrar under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Falsification
of
certificate

(2) Any person who wilfully procures or attempts to procure himself to be licensed or to be issued a certificate of authorization or a certificate of registration under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting him therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
for false
representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed.

Limitation
period

40. Where licensing or the holding of a certificate of authorization under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the defendant has done such act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of authorization under this Act rests upon the defendant.

Onus of
proof

41. A notice or document required by this Act to be served or delivered may be served or delivered personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or delivered by mail, the service or delivery shall be deemed to have been made on the tenth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Service
of notice

Registrar's
certificate
as evidence

42. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity

43.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the Association or a member of the Association or committee, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor
indemnified
in suits
respecting
execution of
his office

(2) Every member of the Council and every officer, member or employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given at any meeting of the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office, employment or appointment; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

Annual
report

44.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Application
of
R.S.O. 1980,
c. 95

45.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that

Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2); and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).
5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 297 (which relates to directions by a court as to holding a meeting).
14. Section 299 (which relates to minutes of meetings).

15. Section 302 (which relates to books of account).
16. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
17. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Minister shall be deemed to be the Minister referred to in the section.
18. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
19. Section 310 (which relates to investigations and audits).
20. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
21. Section 329 (which relates to removal of proceedings into the Supreme Court).
22. Section 330 (which relates to appeals).
23. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Minister and the Deputy Minister to the Minister shall be deemed to be the Minister and the Deputy Minister referred to in the section.
24. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

Interpretation (2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder.

Repeal **46.**—(1) The *Surveyors Act*, being chapter 492 of the Revised Statutes of Ontario, 1980, is repealed.

(2) A reference in any Act or regulation to a surveyor or an Ontario land surveyor registered under the *Surveyors Act* shall be deemed to be a reference to a member of the Association licensed to engage in the practice of cadastral surveying. References
R.S.O. 1980,
c. 492

(3) A reference in any Act or regulation to the *Surveyors Act* shall be deemed to be a reference to this Act. Idem

47. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

48. The short title of this Act is the *Surveyors Act, 1984*. Short title



Bill 64

An Act respecting Actions arising from Transboundary Pollution between Ontario and reciprocating Jurisdictions

The Hon. R. McMurtry
Attorney General

1st Reading May 11th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The present law requires a person in one jurisdiction who is damaged by pollution arising in another jurisdiction to sue in the place where the damage occurs.

This Bill would permit the action to be brought in the place where the pollution arises as between Ontario and a reciprocating jurisdiction.

The Bill is a Uniform Act drafted and recommended jointly by the Uniform Law Conference of Canada and the National Conference of Commissioners on Uniform State Laws.

Bill 64

1984

**An Act respecting Actions arising from
Transboundary Pollution between Ontario
and reciprocating Jurisdictions**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. In this Act,

Interpretation

- (a) "person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government in its private or public capacity, governmental subdivision or agency, or any other legal entity;
- (b) "reciprocating jurisdiction" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America, or a province or territory of Canada, which has enacted this Act or provides substantially equivalent access to its courts and administrative agencies.

2. An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by pollution originating, or that may originate, in Ontario may be brought in Ontario.

Forum

3. A person who suffers or is threatened with injury to his person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in Ontario has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in Ontario, as if the injury or threatened injury occurred in Ontario.

Right to relief

4. The law to be applied in an action or other proceeding brought pursuant to this Act, including what constitutes "pollution", is the law of Ontario excluding choice of law rules.

Applicable law

Equality of rights

5. This Act does not accord a person injured or threatened with injury in another jurisdiction any rights superior to those that the person would have if injured or threatened with injury in Ontario.

Right additional to those now existing
Act binds Crown

6. The right provided in this Act is in addition to and not in derogation of any other rights.

7. This Act binds the Crown in right of Ontario only to the extent that the Crown would be bound if the person were injured or threatened with injury in Ontario.

Regulations

8. Notwithstanding clause 1 (b), the Lieutenant Governor in Council may by regulation declare a jurisdiction to be a reciprocating jurisdiction for the purposes of this Act.

Uniformity of application and construction

9. This Act shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this Act among jurisdictions enacting it.

Commencement

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is the *Transboundary Pollution Reciprocal Access Act, 1984*.

Bill 65

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

The Hon. R. McMurtry
Attorney General

1st Reading May 11th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would adopt for Ontario a Convention entered into between the Government of Canada and the Government of the United Kingdom for the reciprocal recognition and enforcement of judgments in civil and commercial matters.

The Government of the United Kingdom is about to accede to a convention with the European communities by which assets in the U.K. of persons not domiciled in the U.K. are available to satisfy judgments given anywhere in the European communities on the basis of jurisdiction assumed on grounds not now recognized.

The adoption of the convention referred to in the Bill would except the assets in the U.K. of Ontario domiciliaries from the application of the European Community convention in so far as it applies to judgments based on the "excessive" jurisdiction.

Bill 65**1984**

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "convention" means the Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters set out in the Schedule hereto. Interpretation
2. The Attorney General shall, Designation of Ontario and Ontario courts
 - (a) request the Government of Canada to designate Ontario as a province to which the convention extends; and
 - (b) determine the courts in Ontario to which application for registration of a judgment given by a court of the United Kingdom may be made and request the Government of Canada to designate those courts for the purpose of the convention.
3. On, from and after the date the convention enters into force in respect of Ontario as determined by the convention, the convention is in force in Ontario and the provisions thereof are law in Ontario. Convention in force in Ontario
4. The Attorney General shall cause to be published in *The Ontario Gazette* the date the convention is executed, the date the convention comes into force in Ontario and the courts to which application for registration of a judgment given by a court of the United Kingdom may be made. Publication of date and courts
5. The Lieutenant Governor in Council may make such regulations as are necessary to carry out the intent and purpose of this Act. Regulations

This Act
prevails

6. Where there is a conflict between this Act and any other Act or any regulation or rule of court made thereunder, this Act prevails.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Reciprocal Enforcement of Judgments (U.K.) Act, 1984*.

SCHEDULE

CONVENTION BETWEEN CANADA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

Canada,

and

The United Kingdom of Great Britain and Northern Ireland,

DESIRING to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters;

HAVE AGREED AS FOLLOWS:

PART I

DEFINITIONS

ARTICLE I

In this Convention

- (a) "appeal" includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;
- (b) "the 1968 Convention" means the Convention of 27th September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as amended;
- (c) "court of a Contracting State" means
 - (i) in relation to the United Kingdom, any court of the United Kingdom or of any territory to which this Convention extends pursuant to Article XIII,
 - (ii) in relation to Canada, the Federal Court of Canada or any court of a province or territory to which this Convention extends pursuant to Article XII,

ANNEXE

CONVENTION ENTRE LE CANADA ET LE ROYAUME-UNI DE
GRANDE-BRETAGNE ET D'IRLANDE DU NORD POUR ASSURER
LA RECONNAISSANCE ET L'EXÉCUTION RÉCIPROQUES DES
JUGEMENTS EN MATIÈRE CIVILE ET COMMERCIALE

Le Canada,

et

Le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord,

DÉSIRANT pourvoir sur une base de réciprocité à la reconnaissance et l'exécution des jugements en matière civile et commerciale,

SONT CONVENUS DES DISPOSITIONS SUIVANTES :

PARTIE I

DÉFINITIONS

ARTICLE I

Dans la présente Convention

- a) "appel" s'entend entre autres de toute procédure tendant à faire annuler un jugement ou d'une demande en vue d'obtenir un nouveau procès ou une ordonnance de surseoir à l'exécution d'un jugement;
- b) "la Convention de 1968" désigne la Convention du 27 septembre 1968 concernant la compétence judiciaire et l'exécution des décisions en matière civile et commerciale, ainsi que ses modifications;
- c) "jugement" désigne toute décision, quelle que soit son appellation (jugement, arrêt, ordonnance, etc.), rendue par un tribunal en matière civile ou commerciale, et s'entend entre autres de la sentence arbitrale qui est devenue exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par un tribunal de ce territoire;

and the expressions "court of the United Kingdom" and "court of Canada" shall be construed accordingly;

- (d) "judgment" means any decision, however described (judgment, order and the like), given by a court in a civil or commercial matter, and includes an award in proceedings on an arbitration if the award has become enforceable in the territory of origin in the same manner as a judgment given by a court in that territory;
- (e) "judgment creditor" means the person in whose favour the judgment was given, and includes his executors, administrators, successors and assigns;
- (f) "judgment debtor" means the person against whom the judgment was given and includes any person against whom the judgment is enforceable under the law of the territory of origin;
- (g) "original court" in relation to any judgment means the court by which the judgment was given;
- (h) "registering court" means a court to which an application for the registration of a judgment is made;
- (i) "territory of origin" means the territory for which the original court was exercising jurisdiction.

PART II

SCOPE OF THE CONVENTION

ARTICLE II

1. Subject to the provisions of this Article, this Convention shall apply to any judgment given by a court of a Contracting State after the Convention enters into force and, for the purposes of Article IX, to any judgment given by a court of a third State which is party to the 1968 Convention.

2. This Convention shall not apply to

- (a) orders for the periodic payment of maintenance;
- (b) the recovery of taxes, duties or charges of a like nature or the recovery of a fine or penalty;
- (c) judgments given on appeal from decisions of tribunals other than courts;

- d) "partie gagnante" désigne toute personne au profit de laquelle le jugement a été rendu, et s'entend entre autres de ses exécuteurs, de ses administrateurs, de ses héritiers et de ses ayants cause;
- e) "partie perdante" désigne toute personne contre laquelle le jugement a été rendu, et s'entend entre autres de toute personne contre laquelle le jugement peut être exécuté en vertu de la loi du territoire d'origine;
- f) "territoire d'origine" désigne le territoire sur lequel le tribunal d'origine exerçait sa compétence;
- g) "tribunal d'origine" en ce qui concerne tout jugement désigne le tribunal qui a rendu le jugement;
- h) "tribunal de l'enregistrement" désigne le tribunal auquel est soumise une demande d'enregistrement d'un jugement;
- i) "tribunal d'un État contractant" désigne :
 - (i) en ce qui concerne le Royaume-Uni, tout tribunal du Royaume-Uni ou de tout territoire auquel la présente Convention s'étend par l'application de l'article XIII;
 - (ii) en ce qui concerne le Canada, la Cour fédérale du Canada ou tout autre tribunal d'une province ou d'un territoire auquel la présente Convention s'étend par application de l'article XII,

et les expressions "tribunal du Royaume-Uni" et "tribunal du Canada" s'interprètent en conséquence.

PARTIE II

CHAMP D'APPLICATION DE LA CONVENTION

ARTICLE II

1. Sous réserve des dispositions du présent article, la présente Convention s'applique à tout jugement rendu par un tribunal d'un État contractant après l'entrée en vigueur de la Convention et, aux fins de l'article IX, à tout jugement rendu par un tribunal d'un État tiers qui est partie à la Convention de 1968.

2. La présente Convention ne s'applique pas

- a) aux ordonnances relatives au versement périodique d'une obligation alimentaire;
- b) à la perception d'impôts, de droits ou d'autres taxes semblables ni à la perception d'une amende;
- c) aux jugements rendus sur appel des décisions des tribunaux qui ne sont pas des tribunaux judiciaires;

- (d) judgments which determine
- (i) the status or legal capacity of natural persons;
 - (ii) custody or guardianship of infants;
 - (iii) matrimonial matters;
 - (iv) succession to or the administration of the estates of deceased persons;
 - (v) bankruptcy, insolvency or the winding up of companies or other legal persons;
 - (vi) the management of the affairs of a person not capable of managing his own affairs.

3. Part III of this Convention shall apply only to a judgment whereby a sum of money is made payable.

4. This Convention is without prejudice to any other remedy available to a judgment creditor for the recognition and enforcement in one Contracting State of a judgment given by a court of the other Contracting State.

PART III

ENFORCEMENT OF JUDGMENTS

ARTICLE III

1. Where a judgment has been given by a court of one Contracting State, the judgment creditor may apply in accordance with Article VI to a court of the other Contracting State at any time within a period of six years after the date of the judgment (or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings) to have the judgment registered, and on any such application the registering court shall, subject to such simple and rapid procedures as each Contracting State may prescribe and to the other provisions of this Convention, order the judgment to be registered.

2. In addition to the sum of money payable under the judgment of the original court including interest accrued to the date of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, if any, including the costs of obtaining a certified copy of the judgment from the original court.

3. If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

d) aux jugements qui statuent

- (i) en matière d'état ou de capacité juridique des personnes physiques;
- (ii) en matière de garde ou de tutelle des enfants;
- (iii) en matière matrimoniale;
- (iv) en matière successorale;
- (v) en matière de faillite, d'insolvabilité ou de liquidation de sociétés ou autres personnes morales;
- (vi) en matière d'administration des affaires d'une personne incapable d'administrer ses propres affaires.

3. La Partie III de la présente Convention ne s'applique qu'aux jugements condamnant au paiement d'une somme d'argent.

4. La présente Convention ne porte pas atteinte aux autres recours que possède la partie gagnante afin de faire reconnaître et exécuter dans un État contractant un jugement rendu par un tribunal de l'autre État contractant.

PARTIE III

EXÉCUTION DES JUGEMENTS

ARTICLE III

1. Lorsqu'un jugement a été rendu par un tribunal d'un État contractant, la partie gagnante peut demander, conformément aux dispositions de l'article VI, l'enregistrement de ce jugement à un tribunal de l'autre État contractant à tout moment dans les six ans de la date du jugement (ou, s'il y a eu appel, dans les six ans de la date du dernier jugement rendu dans cette affaire). Le tribunal de l'enregistrement ordonne, sous réserve des procédures simples et rapides qui peuvent être prévues par chaque État contractant et sous réserve des autres dispositions de la présente Convention, que le jugement soit enregistré.

2. En plus de la somme d'argent à payer d'après le jugement du tribunal d'origine, y compris les intérêts échus à la date de l'enregistrement, le jugement accordant l'enregistrement comprend les frais raisonnables d'enregistrement et les frais connexes, s'il y a lieu, y compris les frais d'obtention d'une copie certifiée conforme du jugement du tribunal d'origine.

3. Dans le cas où, lors d'une demande d'enregistrement d'un jugement, il apparaît au tribunal de l'enregistrement que ce jugement porte sur diverses questions et que certaines, mais pas toutes, des dispositions du jugement sont telles que, si elles avaient été contenues dans des jugements distincts, ces jugements auraient pu être dûment enregistrés, l'enregistrement peut être accordé à l'égard des dispositions susmentionnées mais non pas à l'égard des autres.

4. Subject to the other provisions of this Convention

- (a) a registered judgment shall, for the purposes of enforcement, be of the same force and effect;
- (b) proceedings may be taken on it; and
- (c) the registering court shall have the same control over its enforcement,

as if it had been a judgment originally given in the registering court with effect from the date of registration.

ARTICLE IV

1. Registration of a judgment shall be refused or set aside if

- (a) the judgment has been satisfied;
- (b) the judgment is not enforceable in the territory of origin;
- (c) the original court is not regarded by the registering court as having jurisdiction;
- (d) the judgment was obtained by fraud;
- (e) enforcement of the judgment would be contrary to public policy in the territory of the registering court;
- (f) the judgment is a judgment of a country or territory other than the territory of origin which has been registered in the original court or has become enforceable in the territory of origin in the same manner as a judgment of that court; or
- (g) in the view of the registering court the judgment debtor either is entitled to immunity from the jurisdiction of that court or was entitled to immunity in the original court and did not submit to its jurisdiction.

2. The law of the registering court may provide that registration of a judgment may or shall be set aside if

- (a) the judgment debtor, being the defendant in the original proceedings, either was not served with the process of the original court or did not receive notice of those proceedings in sufficient time to enable him to defend the proceedings and, in either case, did not appear;
- (b) another judgment has been given by a court having jurisdiction in the matter in dispute prior to the date of judgment in the original court; or
- (c) the judgment is not final or an appeal is pending or the judgment debtor is entitled to appeal or to apply for leave to appeal against the judgment in the territory of origin.

4. Sous réserve des autres dispositions de la présente Convention

- a) le jugement enregistré a, pour les fins de son exécution, la même force et les mêmes effets;
- b) il pourra faire l'objet de procédures; et
- c) le tribunal de l'enregistrement exerce le même contrôle sur son exécution,

comme s'il s'agissait d'un jugement qui avait été rendu initialement par le tribunal de l'enregistrement et était en vigueur depuis la date de son enregistrement.

ARTICLE IV

1. L'enregistrement d'un jugement doit être refusé ou annulé

- a) si les obligations pécuniaires résultant du jugement sont éteintes;
- b) si le jugement n'est pas susceptible d'exécution sur le territoire d'origine;
- c) si le tribunal d'origine n'est pas considéré comme compétent par le tribunal de l'enregistrement;
- d) si le jugement a été obtenu par des manoeuvres frauduleuses;
- e) si l'exécution du jugement serait contraire à l'ordre public dans le territoire du tribunal de l'enregistrement;
- f) s'il s'agit d'un jugement qui émane d'un pays ou d'un territoire autre que le territoire d'origine et a été enregistré au tribunal d'origine ou est devenu exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par ce tribunal; ou
- g) si, de l'avis du tribunal de l'enregistrement, la partie perdante bénéficie de l'immunité de la juridiction de ce tribunal ou si elle bénéficiait de l'immunité devant le tribunal d'origine et ne s'était pas soumise à la compétence de ce tribunal.

2. La loi du tribunal de l'enregistrement peut rendre obligatoire ou facultative l'annulation de l'enregistrement d'un jugement

- a) si l'acte introductif d'instance émanant du tribunal d'origine n'a pas été signifié à la partie perdante, défenderesse lors de la poursuite initiale, ou que cette partie n'a pas été informée de l'action intentée en temps utile pour lui permettre de présenter une défense et, dans l'un ou l'autre cas, n'a pas comparu;
- b) si un autre jugement a été rendu par un tribunal compétent à l'égard du litige avant la date du jugement rendu par le tribunal d'origine; ou
- c) lorsqu'il ne s'agit pas d'un jugement final, ou lorsqu'un appel est pendant ou que la partie perdante a droit d'en appeler ou de demander l'autorisation d'en appeler à l'encontre du jugement dans le territoire d'origine.

3. If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall be registered only in respect of the balance remaining payable at that date.

4. A judgment shall not be enforced so long as, in accordance with the provisions of this Convention and the law of the registering court, it is competent for any party to make an application to have the registration of the judgment set aside or, where such an application is made, until the application has been finally determined.

ARTICLE V

1. For the purposes of Article IV (1) (c) the original court shall be regarded as having jurisdiction if

- (a) the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings;
- (b) the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original court;
- (c) the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the territory of origin;
- (d) the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted habitually resident in, or being a body corporate had its principal place of business in, the territory of origin;
- (e) the judgment debtor, being a defendant in the original court, had an office or place of business in the territory of origin and the proceedings were in respect of a transaction effected through or at that office or place; or
- (f) the jurisdiction of the original court is otherwise recognised by the registering court.

2. Notwithstanding anything in sub-paragraphs (d), (e) and (f) of paragraph (1), the original court shall not be regarded as having jurisdiction if

- (a) the subject matter of the proceedings was immovable property outside the territory of origin; or
- (b) the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the territory of origin.

3. Si, au moment de la demande d'enregistrement, les obligations résultant du jugement rendu par le tribunal d'origine sont partiellement éteintes, le jugement ne sera enregistré qu'à l'égard des sommes encore dues à cette date.

4. Un jugement n'est pas exécuté tant que, conformément aux dispositions de la présente Convention et de la loi du tribunal de l'enregistrement, l'une des parties peut demander que l'enregistrement du jugement soit annulé, ou tant qu'une demande de ce genre n'aura pas été réglée définitivement.

ARTICLE V

1. Aux fins d'application de l'article IV 1) c), le tribunal d'origine est considéré comme compétent

- a) si la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise à la compétence de ce tribunal en comparaisant volontairement;
- b) si la partie perdante était demanderesse principale ou reconventionnelle devant le tribunal d'origine;
- c) si, avant que l'action ne soit entamée, la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise, en ce qui concerne l'objet de la contestation, à la compétence de ce tribunal ou des tribunaux du territoire d'origine;
- d) si la partie perdante défenderesse devant le tribunal d'origine avait, au moment où l'action a été intentée, une résidence habituelle sur le territoire d'origine, ou dans le cas d'une société, lorsqu'elle y avait sa principale place d'affaires;
- e) si la partie perdante, défenderesse devant le tribunal d'origine, avait sur le territoire d'origine soit une succursale, soit une place d'affaires, et que la contestation concernait une affaire traitée à cette succursale ou cette place d'affaires; ou
- f) si la compétence du tribunal d'origine est autrement admise par le tribunal de l'enregistrement.

2. Nonobstant les dispositions des alinéas d), e) et f) du paragraphe (1), le tribunal d'origine n'est pas considéré comme compétent

- a) si l'objet de la contestation était un immeuble non situé sur le territoire d'origine; ou
- b) si l'action a été entamée devant le tribunal d'origine contrairement à un engagement spécifiant que cette contestation devait être réglée autrement que par une action devant les tribunaux du territoire d'origine.

PART IV
PROCEDURES

ARTICLE VI

1. Any application for the registration in the United Kingdom of a judgment of a court of Canada shall be made

- (a) in England and Wales, to the High Court of Justice;
- (b) in Scotland, to the Court of Session;
- (c) in Northern Ireland, to the High Court of Justice.

2. Any application for the registration in Canada of a judgment of a court of the United Kingdom shall be made

- (a) in the case of a judgment relating to a matter within the competence of the Federal Court of Canada, to the Federal Court of Canada;
- (b) in the case of any other judgment, to a court of a province or territory designated by Canada pursuant to Article XII.

3. The practice and procedure governing registration (including notice to the judgment debtor and applications to set registration aside) shall, except as otherwise provided in this Convention, be governed by the law of the registering court.

4. The registering court may require that an application for registration be accompanied by

- (a) the judgment of the original court or a certified copy thereof;
- (b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;
- (c) proof of the notice given to the defendant in the original proceedings, unless this appears from the judgment; and
- (d) particulars of such other matters as may be required by the rules of the registering court.

ARTICLE VII

All matters concerning

- (a) the conversion of the sum payable under a registered judgment into the currency of the territory of the registering court; and
- (b) the interest payable on the judgment with respect to the period following its registration,

shall be determined by the law of the registering court.

PARTIE IV

PROCÉDURE

ARTICLE VI

1. Toute demande d'enregistrement dans le Royaume-Uni d'un jugement émanant d'un tribunal du Canada doit être présentée

- a) pour l'Angleterre et le pays de Galles, à la "High Court of Justice";
- b) pour l'Écosse, à la "Court of Session";
- c) pour l'Irlande du Nord, à la "High Court of Justice".

2. Toute demande d'enregistrement au Canada d'un jugement émanant d'un tribunal du Royaume-Uni doit être présentée

- a) dans le cas d'un jugement ayant trait à une matière relevant de la compétence de la Cour fédérale du Canada, à cette Cour;
- b) dans le cas de tout autre jugement, au tribunal d'une province ou d'un territoire déterminé par le Canada par application de l'article XII.

3. Sauf stipulations contraires de la présente Convention, l'usage et la procédure régissant l'enregistrement (notamment l'avis à la partie perdante et les demandes pour faire annuler l'enregistrement) sont réglés par la loi du tribunal de l'enregistrement.

4. Le tribunal de l'enregistrement peut exiger que la demande d'enregistrement soit accompagnée

- a) du jugement du tribunal d'origine ou d'une copie certifiée conforme;
- b) d'une traduction certifiée conforme du jugement, s'il a été rendu dans une autre langue que celle du territoire du tribunal de l'enregistrement;
- c) d'un document prouvant que le défendeur devant le tribunal d'origine a été informé de l'action intentée contre lui, à moins que cela ne s'infère du jugement; et
- d) de toute autre indication que peuvent exiger les règles de pratique du tribunal de l'enregistrement.

ARTICLE VII

La loi du tribunal de l'enregistrement détermine les questions relatives

- a) à la conversion, dans la monnaie du territoire du tribunal de l'enregistrement, de la somme d'argent à payer d'après le jugement enregistré; et
- b) à l'intérêt dû à compter de la date de l'enregistrement du jugement.

PART V
RECOGNITION OF JUDGMENTS

ARTICLE VIII

Any judgment given by a court of one Contracting State for the payment of a sum of money which could be registered under this Convention, whether or not the judgment has been registered, and any other judgment given by such a court, which if it were a judgment for the payment of a sum of money could be registered under this Convention, shall, unless registration has been or would be refused or set aside on any ground other than that the judgment has been satisfied or could not be enforced in the territory of origin, be recognised in a court of the other Contracting State as conclusive between the parties thereto in all proceedings founded on the same cause of action.

PART VI
RECOGNITION AND ENFORCEMENT OF THIRD
STATE JUDGMENTS

ARTICLE IX

1. The United Kingdom undertakes, in the circumstances permitted by Article 59 of the 1968 Convention, not to recognise or enforce under that Convention any judgment given in a third State which is a Party to that Convention against a person domiciled or habitually resident in Canada.

2. For the purposes of paragraph (1)

- (a) an individual shall be treated as domiciled in Canada if and only if he is resident in Canada and the nature and circumstances of his residence indicate that he has a substantial connection with Canada; and
- (b) a corporation or association shall be treated as domiciled in Canada if and only if it is incorporated or formed under a law in force in Canada and has a registered office there, or its central management and control is exercised in Canada.

PART VII
FINAL PROVISIONS

ARTICLE X

This Convention shall not affect any conventions, international instruments or reciprocal arrangements to which both Contracting States are or will be parties and which, in relation to particular matters, govern the recognition or enforcement of judgments.

PARTIE V

RECONNAISSANCE DES JUGEMENTS

ARTICLE VIII

Le jugement rendu par un tribunal d'un État contractant condamnant au paiement d'une somme d'argent qui pourrait être enregistré sous le régime de la présente Convention, qu'il ait été enregistré ou non, ou tout autre jugement rendu par un tel tribunal qui, s'il s'agissait d'un jugement condamnant au paiement d'une somme d'argent, pourrait être enregistré sous le régime de la présente Convention, sera reconnu par le tribunal de l'autre État contractant comme ayant l'autorité de la chose jugée entre les parties dans toute action intentée sur le même objet et pour la même cause, à moins que l'enregistrement n'ait été ou ne puisse être refusé ou annulé pour tout autre motif que celui selon lequel les obligations résultant du jugement sont éteintes ou ne pourraient pas être exécutées sur le territoire d'origine.

PARTIE VI

RECONNAISSANCE ET EXÉCUTION DES
JUGEMENTS D'UN ÉTAT TIERS

ARTICLE IX

1. Le Royaume-Uni s'engage, dans les cas prévus par l'article 59 de la Convention de 1968, à ne pas reconnaître ou exécuter par application de cette Convention un jugement rendu dans un État tiers qui est partie à cette Convention contre une personne qui a son domicile ou sa résidence habituelle au Canada.

2. Pour l'application du paragraphe (1)

- a) une personne n'est considérée comme ayant son domicile au Canada que si elle y réside dans des conditions dont il ressort qu'elle a avec le Canada un lien étroit; et
- b) une société ou une association n'est considérée comme ayant son domicile au Canada que si elle est constituée ou formée en vertu d'une loi en vigueur au Canada et y a un siège social, ou si le siège de sa direction et de son contrôle se trouve au Canada.

PARTIE VII

DISPOSITIONS FINALES

ARTICLE X

La présente Convention ne déroge pas aux conventions, aux instruments internationaux ou aux accords réciproques auxquels les deux États contractants sont ou deviendront parties et qui, dans des matières particulières, régissent la reconnaissance ou l'exécution des jugements.

ARTICLE XI

Either Contracting State may, on the exchange of instruments of ratification or at any time thereafter, declare that it will not apply the Convention to a judgment that imposes a liability which that State is under a treaty obligation toward any other State not to recognise or enforce. Any such declaration shall specify the treaty containing the obligation.

ARTICLE XII

1. On the exchange of instruments of ratification, Canada shall designate the provinces or territories to which this Convention shall extend and the courts of the provinces and territories concerned to which application for the registration of a judgment given by a court of the United Kingdom may be made.

2. The designation by Canada may be modified by a further designation given at any time thereafter.

3. Any designation shall take effect three months after the date on which it is given.

ARTICLE XIII

1. The United Kingdom may at any time while this Convention is in force declare that this Convention shall extend to the Isle of Man, any of the Channel Islands, Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia (being territories to which the 1968 Convention may be applied pursuant to Article 60 of that Convention).

2. Any declaration pursuant to paragraph (1) shall specify the courts of the territories to which application for the registration of a judgment given by a court of Canada shall be made.

3. Any declaration made by the United Kingdom pursuant to this Article may be modified by a further declaration given at any time thereafter.

4. Any declaration pursuant to this Article shall take effect three months after the date on which it is given.

ARTICLE XIV

1. This Convention shall be ratified; instruments of ratification shall be exchanged at London.

2. This Convention shall enter into force three months after the date on which instruments of ratification are exchanged.

3. This Convention may be terminated by notice in writing by either Contracting State and it shall terminate three months after the date of such notice.

ARTICLE XI

Chaque État contractant peut, au moment de l'échange des instruments de ratification ou à tout moment ultérieur, déclarer qu'il n'appliquera pas la Convention à un jugement qui impose une responsabilité que cet État ne peut pas, en vertu d'une obligation conventionnelle envers un autre État, reconnaître ou exécuter. Toute déclaration à cet effet doit faire mention du traité concerné.

ARTICLE XII

1. Au moment de l'échange des instruments de ratification, le Canada désignera les provinces ou territoires auxquels la présente Convention s'étendra ainsi que les tribunaux des provinces et des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Royaume-Uni.

2. Le Canada pourra, à tout moment ultérieur, modifier cette désignation.

3. Toute désignation prend effet trois mois après la date où elle est intervenue.

ARTICLE XIII

1. Le Royaume-Uni peut, à tout moment au cours de la présente Convention, déclarer qu'elle s'étend à l'île de Man, à l'une des îles anglo-normandes, à Gibraltar ou aux zones de souveraineté d'Akrotiri et de Dhekelia, (territoires auxquels la Convention de 1968 peut s'appliquer en vertu de l'article 60 de cette Convention).

2. Toute déclaration en vertu du paragraphe (1) doit préciser les tribunaux des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Canada.

3. Toute déclaration du Royaume-Uni en vertu du présent article peut être modifiée à tout moment ultérieur par une déclaration subséquente.

4. Toute déclaration en vertu du présent article prendra effet trois mois après la date où elle est intervenue.

ARTICLE XIV

1. La présente Convention sera ratifiée; les instruments de ratification seront échangés à Londres.

2. La présente Convention prendra effet trois mois après la date de l'échange des instruments de ratification.

3. Il peut être mis fin à la présente Convention au moyen d'un avis écrit de l'un des États contractants, et elle prendra fin trois mois à compter de la date de cet avis.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Ottawa, this 24th day of April 1984 in the English and French languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé la présente Convention.

FAIT en double exemplaire à Ottawa, ce 24^e jour d'avril 1984 dans les langues française et anglaise, chaque version faisant également foi.

For the Government of Canada

Pour le Gouvernement du Canada

John C. Tait

For the Government of the United Kingdom of Great Britain and Northern Ireland

Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

R. H. Baker

Bill 65

*(Chapter 24
Statutes of Ontario, 1984)*

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	May 11th, 1984
<i>2nd Reading</i>	June 7th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 65

1984

An Act respecting a Convention between Canada and the United Kingdom of Great Britain and Northern Ireland providing for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "convention" means the Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters set out in the Schedule hereto. Interpretation

2. The Attorney General shall, Designation of Ontario and Ontario courts

(a) request the Government of Canada to designate Ontario as a province to which the convention extends; and

(b) determine the courts in Ontario to which application for registration of a judgment given by a court of the United Kingdom may be made and request the Government of Canada to designate those courts for the purpose of the convention.

3. On, from and after the date the convention enters into force in respect of Ontario as determined by the convention, the convention is in force in Ontario and the provisions thereof are law in Ontario. Convention in force in Ontario

4. The Attorney General shall cause to be published in *The Ontario Gazette* the date the convention is executed, the date the convention comes into force in Ontario and the courts to which application for registration of a judgment given by a court of the United Kingdom may be made. Publication of date and courts

5. The Lieutenant Governor in Council may make such regulations as are necessary to carry out the intent and purpose of this Act. Regulations

This Act
prevails

6. Where there is a conflict between this Act and any other Act or any regulation or rule of court made thereunder, this Act prevails.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Reciprocal Enforcement of Judgments (U.K.) Act, 1984*.

SCHEDULE

CONVENTION BETWEEN CANADA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

Canada,

and

The United Kingdom of Great Britain and Northern Ireland,

DESIRING to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters;

HAVE AGREED AS FOLLOWS:

PART I

DEFINITIONS

ARTICLE I

In this Convention

- (a) "appeal" includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;
- (b) "the 1968 Convention" means the Convention of 27th September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as amended;
- (c) "court of a Contracting State" means
 - (i) in relation to the United Kingdom, any court of the United Kingdom or of any territory to which this Convention extends pursuant to Article XIII,
 - (ii) in relation to Canada, the Federal Court of Canada or any court of a province or territory to which this Convention extends pursuant to Article XII,

ANNEXE

CONVENTION ENTRE LE CANADA ET LE ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD POUR ASSURER LA RECONNAISSANCE ET L'EXÉCUTION RÉCIPROQUES DES JUGEMENTS EN MATIÈRE CIVILE ET COMMERCIALE

Le Canada,

et

Le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord,

DÉSIRANT pouvoir sur une base de réciprocité à la reconnaissance et l'exécution des jugements en matière civile et commerciale,

SONT CONVENUS DES DISPOSITIONS SUIVANTES :

PARTIE I

DÉFINITIONS

ARTICLE I

Dans la présente Convention

- a) "appel" s'entend entre autres de toute procédure tendant à faire annuler un jugement ou d'une demande en vue d'obtenir un nouveau procès ou une ordonnance de surseoir à l'exécution d'un jugement;
- b) "la Convention de 1968" désigne la Convention du 27 septembre 1968 concernant la compétence judiciaire et l'exécution des décisions en matière civile et commerciale, ainsi que ses modifications;
- c) "jugement" désigne toute décision, quelle que soit son appellation (jugement, arrêt, ordonnance, etc.), rendue par un tribunal en matière civile ou commerciale, et s'entend entre autres de la sentence arbitrale qui est devenue exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par un tribunal de ce territoire;

and the expressions "court of the United Kingdom" and "court of Canada" shall be construed accordingly;

- (d) "judgment" means any decision, however described (judgment, order and the like), given by a court in a civil or commercial matter, and includes an award in proceedings on an arbitration if the award has become enforceable in the territory of origin in the same manner as a judgment given by a court in that territory;
- (e) "judgment creditor" means the person in whose favour the judgment was given, and includes his executors, administrators, successors and assigns;
- (f) "judgment debtor" means the person against whom the judgment was given and includes any person against whom the judgment is enforceable under the law of the territory of origin;
- (g) "original court" in relation to any judgment means the court by which the judgment was given;
- (h) "registering court" means a court to which an application for the registration of a judgment is made;
- (i) "territory of origin" means the territory for which the original court was exercising jurisdiction.

PART II

SCOPE OF THE CONVENTION

ARTICLE II

1. Subject to the provisions of this Article, this Convention shall apply to any judgment given by a court of a Contracting State after the Convention enters into force and, for the purposes of Article IX, to any judgment given by a court of a third State which is party to the 1968 Convention.

2. This Convention shall not apply to

- (a) orders for the periodic payment of maintenance;
- (b) the recovery of taxes, duties or charges of a like nature or the recovery of a fine or penalty;
- (c) judgments given on appeal from decisions of tribunals other than courts;

- d) "partie gagnante" désigne toute personne au profit de laquelle le jugement a été rendu, et s'entend entre autres de ses exécuteurs, de ses administrateurs, de ses héritiers et de ses ayants cause;
- e) "partie perdante" désigne toute personne contre laquelle le jugement a été rendu, et s'entend entre autres de toute personne contre laquelle le jugement peut être exécuté en vertu de la loi du territoire d'origine;
- f) "territoire d'origine" désigne le territoire sur lequel le tribunal d'origine exerçait sa compétence;
- g) "tribunal d'origine" en ce qui concerne tout jugement désigne le tribunal qui a rendu le jugement;
- h) "tribunal de l'enregistrement" désigne le tribunal auquel est soumise une demande d'enregistrement d'un jugement;
- i) "tribunal d'un État contractant" désigne :
 - (i) en ce qui concerne le Royaume-Uni, tout tribunal du Royaume-Uni ou de tout territoire auquel la présente Convention s'étend par l'application de l'article XIII;
 - (ii) en ce qui concerne le Canada, la Cour fédérale du Canada ou tout autre tribunal d'une province ou d'un territoire auquel la présente Convention s'étend par application de l'article XII,

et les expressions "tribunal du Royaume-Uni" et "tribunal du Canada" s'interprètent en conséquence.

PARTIE II

CHAMP D'APPLICATION DE LA CONVENTION

ARTICLE II

1. Sous réserve des dispositions du présent article, la présente Convention s'applique à tout jugement rendu par un tribunal d'un État contractant après l'entrée en vigueur de la Convention et, aux fins de l'article IX, à tout jugement rendu par un tribunal d'un État tiers qui est partie à la Convention de 1968.

2. La présente Convention ne s'applique pas

- a) aux ordonnances relatives au versement périodique d'une obligation alimentaire;
- b) à la perception d'impôts, de droits ou d'autres taxes semblables ni à la perception d'une amende;
- c) aux jugements rendus sur appel des décisions des tribunaux qui ne sont pas des tribunaux judiciaires;

- (d) judgments which determine
- (i) the status or legal capacity of natural persons;
 - (ii) custody or guardianship of infants;
 - (iii) matrimonial matters;
 - (iv) succession to or the administration of the estates of deceased persons;
 - (v) bankruptcy, insolvency or the winding up of companies or other legal persons;
 - (vi) the management of the affairs of a person not capable of managing his own affairs.

3. Part III of this Convention shall apply only to a judgment whereby a sum of money is made payable.

4. This Convention is without prejudice to any other remedy available to a judgment creditor for the recognition and enforcement in one Contracting State of a judgment given by a court of the other Contracting State.

PART III

ENFORCEMENT OF JUDGMENTS

ARTICLE III

1. Where a judgment has been given by a court of one Contracting State, the judgment creditor may apply in accordance with Article VI to a court of the other Contracting State at any time within a period of six years after the date of the judgment (or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings) to have the judgment registered, and on any such application the registering court shall, subject to such simple and rapid procedures as each Contracting State may prescribe and to the other provisions of this Convention, order the judgment to be registered.

2. In addition to the sum of money payable under the judgment of the original court including interest accrued to the date of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, if any, including the costs of obtaining a certified copy of the judgment from the original court.

3. If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

d) aux jugements qui statuent

- (i) en matière d'état ou de capacité juridique des personnes physiques;
- (ii) en matière de garde ou de tutelle des enfants;
- (iii) en matière matrimoniale;
- (iv) en matière successorale;
- (v) en matière de faillite, d'insolvabilité ou de liquidation de sociétés ou autres personnes morales;
- (vi) en matière d'administration des affaires d'une personne incapable d'administrer ses propres affaires.

3. La Partie III de la présente Convention ne s'applique qu'aux jugements condamnant au paiement d'une somme d'argent.

4. La présente Convention ne porte pas atteinte aux autres recours que possède la partie gagnante afin de faire reconnaître et exécuter dans un État contractant un jugement rendu par un tribunal de l'autre État contractant.

PARTIE III

EXÉCUTION DES JUGEMENTS

ARTICLE III

1. Lorsqu'un jugement a été rendu par un tribunal d'un État contractant, la partie gagnante peut demander, conformément aux dispositions de l'article VI, l'enregistrement de ce jugement à un tribunal de l'autre État contractant à tout moment dans les six ans de la date du jugement (ou, s'il y a eu appel, dans les six ans de la date du dernier jugement rendu dans cette affaire). Le tribunal de l'enregistrement ordonne, sous réserve des procédures simples et rapides qui peuvent être prévues par chaque État contractant et sous réserve des autres dispositions de la présente Convention, que le jugement soit enregistré.

2. En plus de la somme d'argent à payer d'après le jugement du tribunal d'origine, y compris les intérêts échus à la date de l'enregistrement, le jugement accordant l'enregistrement comprend les frais raisonnables d'enregistrement et les frais connexes, s'il y a lieu, y compris les frais d'obtention d'une copie certifiée conforme du jugement du tribunal d'origine.

3. Dans le cas où, lors d'une demande d'enregistrement d'un jugement, il apparaît au tribunal de l'enregistrement que ce jugement porte sur diverses questions et que certaines, mais pas toutes, des dispositions du jugement sont telles que, si elles avaient été contenues dans des jugements distincts, ces jugements auraient pu être dûment enregistrés, l'enregistrement peut être accordé à l'égard des dispositions susmentionnées mais non pas à l'égard des autres.

4. Subject to the other provisions of this Convention

- (a) a registered judgment shall, for the purposes of enforcement, be of the same force and effect;
- (b) proceedings may be taken on it; and
- (c) the registering court shall have the same control over its enforcement,

as if it had been a judgment originally given in the registering court with effect from the date of registration.

ARTICLE IV

1. Registration of a judgment shall be refused or set aside if

- (a) the judgment has been satisfied;
- (b) the judgment is not enforceable in the territory of origin;
- (c) the original court is not regarded by the registering court as having jurisdiction;
- (d) the judgment was obtained by fraud;
- (e) enforcement of the judgment would be contrary to public policy in the territory of the registering court;
- (f) the judgment is a judgment of a country or territory other than the territory of origin which has been registered in the original court or has become enforceable in the territory of origin in the same manner as a judgment of that court; or
- (g) in the view of the registering court the judgment debtor either is entitled to immunity from the jurisdiction of that court or was entitled to immunity in the original court and did not submit to its jurisdiction.

2. The law of the registering court may provide that registration of a judgment may or shall be set aside if

- (a) the judgment debtor, being the defendant in the original proceedings, either was not served with the process of the original court or did not receive notice of those proceedings in sufficient time to enable him to defend the proceedings and, in either case, did not appear;
- (b) another judgment has been given by a court having jurisdiction in the matter in dispute prior to the date of judgment in the original court; or
- (c) the judgment is not final or an appeal is pending or the judgment debtor is entitled to appeal or to apply for leave to appeal against the judgment in the territory of origin.

4. Sous réserve des autres dispositions de la présente Convention

- a) le jugement enregistré a, pour les fins de son exécution, la même force et les mêmes effets;
- b) il pourra faire l'objet de procédures; et
- c) le tribunal de l'enregistrement exerce le même contrôle sur son exécution,

comme s'il s'agissait d'un jugement qui avait été rendu initialement par le tribunal de l'enregistrement et était en vigueur depuis la date de son enregistrement.

ARTICLE IV

1. L'enregistrement d'un jugement doit être refusé ou annulé

- a) si les obligations pécuniaires résultant du jugement sont éteintes;
- b) si le jugement n'est pas susceptible d'exécution sur le territoire d'origine;
- c) si le tribunal d'origine n'est pas considéré comme compétent par le tribunal de l'enregistrement;
- d) si le jugement a été obtenu par des manoeuvres frauduleuses;
- e) si l'exécution du jugement serait contraire à l'ordre public dans le territoire du tribunal de l'enregistrement;
- f) s'il s'agit d'un jugement qui émane d'un pays ou d'un territoire autre que le territoire d'origine et a été enregistré au tribunal d'origine ou est devenu exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par ce tribunal; ou
- g) si, de l'avis du tribunal de l'enregistrement, la partie perdante bénéficie de l'immunité de la juridiction de ce tribunal ou si elle bénéficiait de l'immunité devant le tribunal d'origine et ne s'était pas soumise à la compétence de ce tribunal.

2. La loi du tribunal de l'enregistrement peut rendre obligatoire ou facultative l'annulation de l'enregistrement d'un jugement

- a) si l'acte introductif d'instance émanant du tribunal d'origine n'a pas été signifié à la partie perdante, défenderesse lors de la poursuite initiale, ou que cette partie n'a pas été informée de l'action intentée en temps utile pour lui permettre de présenter une défense et, dans l'un ou l'autre cas, n'a pas comparu;
- b) si un autre jugement a été rendu par un tribunal compétent à l'égard du litige avant la date du jugement rendu par le tribunal d'origine; ou
- c) lorsqu'il ne s'agit pas d'un jugement final, ou lorsqu'un appel est pendant ou que la partie perdante a droit d'en appeler ou de demander l'autorisation d'en appeler à l'encontre du jugement dans le territoire d'origine.

3. If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall be registered only in respect of the balance remaining payable at that date.

4. A judgment shall not be enforced so long as, in accordance with the provisions of this Convention and the law of the registering court, it is competent for any party to make an application to have the registration of the judgment set aside or, where such an application is made, until the application has been finally determined.

ARTICLE V

1. For the purposes of Article IV (1) (c) the original court shall be regarded as having jurisdiction if

- (a) the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings;
- (b) the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original court;
- (c) the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the territory of origin;
- (d) the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted habitually resident in, or being a body corporate had its principal place of business in, the territory of origin;
- (e) the judgment debtor, being a defendant in the original court, had an office or place of business in the territory of origin and the proceedings were in respect of a transaction effected through or at that office or place; or
- (f) the jurisdiction of the original court is otherwise recognised by the registering court.

2. Notwithstanding anything in sub-paragraphs (d), (e) and (f) of paragraph (1), the original court shall not be regarded as having jurisdiction if

- (a) the subject matter of the proceedings was immoveable property outside the territory of origin; or
- (b) the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the territory of origin.

3. Si, au moment de la demande d'enregistrement, les obligations résultant du jugement rendu par le tribunal d'origine sont partiellement éteintes, le jugement ne sera enregistré qu'à l'égard des sommes encore dues à cette date.

4. Un jugement n'est pas exécuté tant que, conformément aux dispositions de la présente Convention et de la loi du tribunal de l'enregistrement, l'une des parties peut demander que l'enregistrement du jugement soit annulé, ou tant qu'une demande de ce genre n'aura pas été réglée définitivement.

ARTICLE V

1. Aux fins d'application de l'article IV 1) c), le tribunal d'origine est considéré comme compétent

- a) si la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise à la compétence de ce tribunal en comparaisant volontairement;
- b) si la partie perdante était demanderesse principale ou reconventionnelle devant le tribunal d'origine;
- c) si, avant que l'action ne soit entamée, la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise, en ce qui concerne l'objet de la contestation, à la compétence de ce tribunal ou des tribunaux du territoire d'origine;
- d) si la partie perdante défenderesse devant le tribunal d'origine avait, au moment où l'action a été intentée, une résidence habituelle sur le territoire d'origine, ou dans le cas d'une société, lorsqu'elle y avait sa principale place d'affaires;
- e) si la partie perdante, défenderesse devant le tribunal d'origine, avait sur le territoire d'origine soit une succursale, soit une place d'affaires, et que la contestation concernait une affaire traitée à cette succursale ou cette place d'affaires; ou
- f) si la compétence du tribunal d'origine est autrement admise par le tribunal de l'enregistrement.

2. Nonobstant les dispositions des alinéas d), e) et f) du paragraphe (1), le tribunal d'origine n'est pas considéré comme compétent

- a) si l'objet de la contestation était un immeuble non situé sur le territoire d'origine; ou
- b) si l'action a été entamée devant le tribunal d'origine contrairement à un engagement spécifiant que cette contestation devait être réglée autrement que par une action devant les tribunaux du territoire d'origine.

PART IV
PROCEDURES

ARTICLE VI

1. Any application for the registration in the United Kingdom of a judgment of a court of Canada shall be made

- (a) in England and Wales, to the High Court of Justice;
- (b) in Scotland, to the Court of Session;
- (c) in Northern Ireland, to the High Court of Justice.

2. Any application for the registration in Canada of a judgment of a court of the United Kingdom shall be made

- (a) in the case of a judgment relating to a matter within the competence of the Federal Court of Canada, to the Federal Court of Canada;
- (b) in the case of any other judgment, to a court of a province or territory designated by Canada pursuant to Article XII.

3. The practice and procedure governing registration (including notice to the judgment debtor and applications to set registration aside) shall, except as otherwise provided in this Convention, be governed by the law of the registering court.

4. The registering court may require that an application for registration be accompanied by

- (a) the judgment of the original court or a certified copy thereof;
- (b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;
- (c) proof of the notice given to the defendant in the original proceedings, unless this appears from the judgment; and
- (d) particulars of such other matters as may be required by the rules of the registering court.

ARTICLE VII

All matters concerning

- (a) the conversion of the sum payable under a registered judgment into the currency of the territory of the registering court; and
- (b) the interest payable on the judgment with respect to the period following its registration,

shall be determined by the law of the registering court.

PARTIE IV

PROCÉDURE

ARTICLE VI

1. Toute demande d'enregistrement dans le Royaume-Uni d'un jugement émanant d'un tribunal du Canada doit être présentée

- a) pour l'Angleterre et le pays de Galles, à la "High Court of Justice";
- b) pour l'Écosse, à la "Court of Session";
- c) pour l'Irlande du Nord, à la "High Court of Justice".

2. Toute demande d'enregistrement au Canada d'un jugement émanant d'un tribunal du Royaume-Uni doit être présentée

- a) dans le cas d'un jugement ayant trait à une matière relevant de la compétence de la Cour fédérale du Canada, à cette Cour;
- b) dans le cas de tout autre jugement, au tribunal d'une province ou d'un territoire déterminé par le Canada par application de l'article XII.

3. Sauf stipulations contraires de la présente Convention, l'usage et la procédure régissant l'enregistrement (notamment l'avis à la partie perdante et les demandes pour faire annuler l'enregistrement) sont réglés par la loi du tribunal de l'enregistrement.

4. Le tribunal de l'enregistrement peut exiger que la demande d'enregistrement soit accompagnée

- a) du jugement du tribunal d'origine ou d'une copie certifiée conforme;
- b) d'une traduction certifiée conforme du jugement, s'il a été rendu dans une autre langue que celle du territoire du tribunal de l'enregistrement;
- c) d'un document prouvant que le défendeur devant le tribunal d'origine a été informé de l'action intentée contre lui, à moins que cela ne s'infère du jugement; et
- d) de toute autre indication que peuvent exiger les règles de pratique du tribunal de l'enregistrement.

ARTICLE VII

La loi du tribunal de l'enregistrement détermine les questions relatives

- a) à la conversion, dans la monnaie du territoire du tribunal de l'enregistrement, de la somme d'argent à payer d'après le jugement enregistré; et
- b) à l'intérêt dû à compter de la date de l'enregistrement du jugement.

PART V

RECOGNITION OF JUDGMENTS

ARTICLE VIII

Any judgment given by a court of one Contracting State for the payment of a sum of money which could be registered under this Convention, whether or not the judgment has been registered, and any other judgment given by such a court, which if it were a judgment for the payment of a sum of money could be registered under this Convention, shall, unless registration has been or would be refused or set aside on any ground other than that the judgment has been satisfied or could not be enforced in the territory of origin, be recognised in a court of the other Contracting State as conclusive between the parties thereto in all proceedings founded on the same cause of action.

PART VI

RECOGNITION AND ENFORCEMENT OF THIRD
STATE JUDGMENTS

ARTICLE IX

1. The United Kingdom undertakes, in the circumstances permitted by Article 59 of the 1968 Convention, not to recognise or enforce under that Convention any judgment given in a third State which is a Party to that Convention against a person domiciled or habitually resident in Canada.

2. For the purposes of paragraph (1)

- (a) an individual shall be treated as domiciled in Canada if and only if he is resident in Canada and the nature and circumstances of his residence indicate that he has a substantial connection with Canada; and
- (b) a corporation or association shall be treated as domiciled in Canada if and only if it is incorporated or formed under a law in force in Canada and has a registered office there, or its central management and control is exercised in Canada.

PART VII

FINAL PROVISIONS

ARTICLE X

This Convention shall not affect any conventions, international instruments or reciprocal arrangements to which both Contracting States are or will be parties and which, in relation to particular matters, govern the recognition or enforcement of judgments.

PARTIE V

RECONNAISSANCE DES JUGEMENTS

ARTICLE VIII

Le jugement rendu par un tribunal d'un État contractant condamnant au paiement d'une somme d'argent qui pourrait être enregistré sous le régime de la présente Convention, qu'il ait été enregistré ou non, ou tout autre jugement rendu par un tel tribunal qui, s'il s'agissait d'un jugement condamnant au paiement d'une somme d'argent, pourrait être enregistré sous le régime de la présente Convention, sera reconnu par le tribunal de l'autre État contractant comme ayant l'autorité de la chose jugée entre les parties dans toute action intentée sur le même objet et pour la même cause, à moins que l'enregistrement n'ait été ou ne puisse être refusé ou annulé pour tout autre motif que celui selon lequel les obligations résultant du jugement sont éteintes ou ne pourraient pas être exécutées sur le territoire d'origine.

PARTIE VI

RECONNAISSANCE ET EXÉCUTION DES JUGEMENTS D'UN ÉTAT TIERS

ARTICLE IX

1. Le Royaume-Uni s'engage, dans les cas prévus par l'article 59 de la Convention de 1968, à ne pas reconnaître ou exécuter par application de cette Convention un jugement rendu dans un État tiers qui est partie à cette Convention contre une personne qui a son domicile ou sa résidence habituelle au Canada.

2. Pour l'application du paragraphe (1)

- a) une personne n'est considérée comme ayant son domicile au Canada que si elle y réside dans des conditions dont il ressort qu'elle a avec le Canada un lien étroit; et
- b) une société ou une association n'est considérée comme ayant son domicile au Canada que si elle est constituée ou formée en vertu d'une loi en vigueur au Canada et y a un siège social, ou si le siège de sa direction et de son contrôle se trouve au Canada.

PARTIE VII

DISPOSITIONS FINALES

ARTICLE X

La présente Convention ne déroge pas aux conventions, aux instruments internationaux ou aux accords réciproques auxquels les deux États contractants sont ou deviendront parties et qui, dans des matières particulières, règlent la reconnaissance ou l'exécution des jugements.

ARTICLE XI

Either Contracting State may, on the exchange of instruments of ratification or at any time thereafter, declare that it will not apply the Convention to a judgment that imposes a liability which that State is under a treaty obligation toward any other State not to recognise or enforce. Any such declaration shall specify the treaty containing the obligation.

ARTICLE XII

1. On the exchange of instruments of ratification, Canada shall designate the provinces or territories to which this Convention shall extend and the courts of the provinces and territories concerned to which application for the registration of a judgment given by a court of the United Kingdom may be made.

2. The designation by Canada may be modified by a further designation given at any time thereafter.

3. Any designation shall take effect three months after the date on which it is given.

ARTICLE XIII

1. The United Kingdom may at any time while this Convention is in force declare that this Convention shall extend to the Isle of Man, any of the Channel Islands, Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia (being territories to which the 1968 Convention may be applied pursuant to Article 60 of that Convention).

2. Any declaration pursuant to paragraph (1) shall specify the courts of the territories to which application for the registration of a judgment given by a court of Canada shall be made.

3. Any declaration made by the United Kingdom pursuant to this Article may be modified by a further declaration given at any time thereafter.

4. Any declaration pursuant to this Article shall take effect three months after the date on which it is given.

ARTICLE XIV

1. This Convention shall be ratified; instruments of ratification shall be exchanged at London.

2. This Convention shall enter into force three months after the date on which instruments of ratification are exchanged.

3. This Convention may be terminated by notice in writing by either Contracting State and it shall terminate three months after the date of such notice.

ARTICLE XI

Chaque État contractant peut, au moment de l'échange des instruments de ratification ou à tout moment ultérieur, déclarer qu'il n'appliquera pas la Convention à un jugement qui impose une responsabilité que cet État ne peut pas, en vertu d'une obligation conventionnelle envers un autre État, reconnaître ou exécuter. Toute déclaration à cet effet doit faire mention du traité concerné.

ARTICLE XII

1. Au moment de l'échange des instruments de ratification, le Canada désignera les provinces ou territoires auxquels la présente Convention s'étendra ainsi que les tribunaux des provinces et des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Royaume-Uni.

2. Le Canada pourra, à tout moment ultérieur, modifier cette désignation.

3. Toute désignation prend effet trois mois après la date où elle est intervenue.

ARTICLE XIII

1. Le Royaume-Uni peut, à tout moment au cours de la présente Convention, déclarer qu'elle s'étend à l'île de Man, à l'une des îles anglo-normandes, à Gibraltar ou aux zones de souveraineté d'Akrotiri et de Dhekelia, (territoires auxquels la Convention de 1968 peut s'appliquer en vertu de l'article 60 de cette Convention).

2. Toute déclaration en vertu du paragraphe (1) doit préciser les tribunaux des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Canada.

3. Toute déclaration du Royaume-Uni en vertu du présent article peut être modifiée à tout moment ultérieur par une déclaration subséquente.

4. Toute déclaration en vertu du présent article prendra effet trois mois après la date où elle est intervenue.

ARTICLE XIV

1. La présente Convention sera ratifiée; les instruments de ratification seront échangés à Londres.

2. La présente Convention prendra effet trois mois après la date de l'échange des instruments de ratification.

3. Il peut être mis fin à la présente Convention au moyen d'un avis écrit de l'un des États contractants, et elle prendra fin trois mois à compter de la date de cet avis.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Ottawa, this 24th day of April 1984 in the English and French languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé la présente Convention.

FAIT en double exemplaire à Ottawa, ce 24^e jour d'avril 1984 dans les langues française et anglaise, chaque version faisant également foi.

For the Government of Canada

Pour le Gouvernement du Canada

John C. Tait

For the Government of the United Kingdom of Great Britain and Northern Ireland

Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

R. H. Baker

Bill 66

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading May 14th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill, intended to facilitate the wider use of modern information technology in Ontario's land registration systems, is designed to take effect across the province in stages.

Part I (Documents) will apply to the parts of Ontario designated by regulation. Its provisions deal primarily with the form and execution of conveyancing documents and are capable of functioning in registry offices which are not automated. Users will be required to employ simplified standard forms from which all affidavits and all seals (except corporate seals) have been eliminated. A scheme allowing the registration of short form mortgages, incorporating standard terms which will be on file but not repeated in each mortgage document, is included.

Part II (Automated Recording and Property Mapping) authorizes the further designation of areas to which Part I already applies, as areas in which automated recording and property mapping systems will be employed.

Part III contains amendments to nine related statutes.

Part I (DOCUMENTS)

SECTION 1. Self-explanatory.

SECTION 2. Part I is to apply to conveyancing documents that affect land in the areas designated by regulation.

SECTION 3. Conveyancing documents, to qualify for registration under the *Registry Act* or the *Land Titles Act*, or deposit under the *Registry Act*, must comply with Part I and the regulations. However, documents executed before the relevant area was brought under Part I are exempted from this requirement, and the Director of Land Registration and District Court judges are also empowered to permit the registration or deposit of documents which do not satisfy the requirements of Part I and the regulations. Non-compliance with the registration requirements of Part I and the regulations does not invalidate a document once registered or deposited.

SECTION 4. Documents which do not satisfy the formal requirements of Part I and the regulations may be registered if they are attached to documents which do satisfy those requirements. (See also clause 3 (1) (b) of the Bill.)

SECTION 5. The traditional four covenants and release and various covenants for specific situations, currently deemed to be included in deeds and transfers by virtue of section 23 of the *Conveyancing and Law of Property Act* and the *Short Forms of Conveyances Act*, are repeated in more modern language and deemed to be included in transfers to which Part I applies.

SECTION 6. Mortgages of *Registry Act* land (unlike mortgages of *Land Titles Act* land) currently operate as conveyances of the legal estate in the land to the mortgagee, the mortgagor retaining only the equity of redemption. Section 6 eliminates this concept from mortgages of land to which Part I applies, while preserving all the rights and remedies enjoyed by mortgagors and mortgagees.

SECTION 7. The traditional covenants currently deemed to be included in mortgages by virtue of sections 7 and 8 of the *Mortgages Act* and the *Short Forms of Mortgages Act*, adjusted to take account of the amendment made by section 6 of the Bill, are repeated in more modern language and deemed to be included in mortgages (referred to throughout the Bill as "charges") to which Part I applies.

A mortgage in the prescribed form is deemed to include any standard mortgage terms that are prescribed by regulation, unless they are specifically excluded or the short

form scheme is used (see explanatory note for sections 8 to 12 of the Bill). This will permit the adoption of basic-uniform mortgage terms in routine transactions.

SECTIONS 8 to 12. These sections create a scheme for the registration of short form mortgages. A lender who has filed a set of standard mortgage terms with the Director may register short form mortgages which incorporate the standard mortgage terms by referring to the set's filing number. Provision is made for the variation of terms in individual short form mortgages. A lender who wishes to make general amendments to the standard mortgage terms must file a new set of terms.

Lenders are required to provide copies of their standard mortgage terms to borrowers before a mortgage is executed.

The Director may require lenders to file standard mortgage terms that they use frequently and to register short form rather than long form mortgages.

SECTION 13. Parties executing conveyancing documents will no longer be required to do so under seal.

SECTION 14. Self-explanatory.

Part II (AUTOMATED RECORDING AND PROPERTY MAPPING)

SECTION 15. Areas to which Part I applies may be further designated by regulation as areas in which automated recording and property mapping systems will be employed.

SECTION 16. During the first three months of experience with the automated system in a particular area, registration and search fees may be reduced temporarily by the Director of Land Registration without the necessity of amending the general fee regulations made under the *Land Titles Act* and the *Registry Act*.

Part III (AMENDMENTS TO STATUTE LAW)

SECTION 17. *Conveyancing and Law of Property Act*

Subsections 1 and 2. References to a receipt for consideration money in sections 6 and 7 of the Act are replaced by references to a statement of consideration money, because the form of transfer contemplated by Part I of the Bill will contain a recital of the consideration rather than a receipt as such.

Subsection 3. Conveyances of land in parts of Ontario subject to Part I of the Bill will include the implied covenants found in section 5 of the Bill, making subsections 23 (1), (2), (3) and (4) of the *Conveyancing and Law of Property Act* superfluous.

SECTION 18. *Family Law Reform Act*

Subsection 1. In areas subject to Part I of the Bill, a statement by a person conveying or charging land will be acceptable as an alternative to the affidavit contemplated by subsection 42 (3) of the *Family Law Reform Act*.

The revised wording of the subsection clarifies that the affidavit (or statement) must be made by the person himself or herself.

Subsection 2. The sanction provided in clause 45 (1) (f) of the Act against giving a false affidavit under subsection 42 (3) is extended to false statements under that subsection.

SECTION 19. *Land Titles Act*

Subsection 1. Self-explanatory.

Subsection 2. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 3. Self-explanatory.

Subsection 4. Users of the automated index are entitled to rely on it.

Subsection 5. Self-explanatory.

Subsections 6 and 7. The broader word "record" is substituted for the word "book" because land registry records will not necessarily be in book form where automated recording is in effect.

Subsection 8. Entries will not be capable of being signed (as existing subsection 81 (3) of the *Land Titles Act* requires) if they are made electronically. The broader concept of certification is used instead.

Subsection 9. The new subsection is complementary to section 13 of the Bill.

Subsection 10. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsection 11. Subsection 93 (5) of the *Land Titles Act* requires the authorization of the parties or their solicitors for the registration of a bond mortgage as a charge on land. Where Part I of the Bill applies bond mortgages will be registered as schedules to the prescribed form of charge, executed by the party giving the charge, and specific authorization for registration will no longer be necessary.

Subsection 12. Charges of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 94, 95, 96 and 97 of the *Land Titles Act* superfluous.

Subsection 13. Transfers of leasehold land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making section 109 of the *Land Titles Act* superfluous.

Subsection 14. Section 141a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated parcel register and to the property maps. Pre-system records may be incorporated into the automated parcel register as the Director instructs.

Section 141b applies to all Part I lands and sets standards for property descriptions.

Subsection 15. Section 147 of the *Land Titles Act* allows land registrars to prepare index plans to facilitate property description. No new index plans will be required for lands that are subject to Part II and organized according to property identifiers.

Subsections 16 and 17. Self-explanatory.

Subsection 18. Land registrars for areas subject to Part I need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 19. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the

original input, although it may appear in a different form, and to provide that output may also be admitted where there is no original as such.

Subsection 20. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsection 21. Subsections 166 (1), (2), (3) and (4) of the *Land Titles Act* deal with addresses for service, a subject which will be covered by regulations under Part I.

SECTION 20. *Mortgages Act*

Subsection 1. Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 7 and 8 of the *Mortgages Act* superfluous.

Subsection 2. The proposed section is identical to existing section 6 of the *Short Forms of Mortgages Act*. Since that Act will be consulted less frequently as Part I is extended across the province (see section 25 of the Bill), this provision is, in effect, transferred to the *Mortgages Act*.

SECTION 21. *Planning Act, 1983*

Proposed subsection 49 (21a), applicable throughout Ontario, provides that where a deed or transfer contains prescribed statements by the grantor and lawyers on both sides, any contraventions of the *Planning Act* up to and including the deed or transfer are, in effect, forgiven.

The search of title for *Planning Act* purposes carried out by a grantee's lawyer to support his or her prescribed statement need not go back beyond the most recent set of prescribed statements that are registered.

The Minister of Municipal Affairs and Housing may, by an order that takes effect upon registration, withdraw any land from the application of subsection 49 (21a).

A false statement made under subsection 49 (21a) is an offence punishable by a fine whose maximum level represents the value of the improperly subdivided lands immediately after the subdivision took place.

SECTION 22. *Registry Act*

Subsection 1. Self-explanatory.

Subsection 2. Land registrars for areas subject to Part I of the Bill need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 3. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the original input, although it may appear in a different form, and that output may also be admitted where there is no original as such.

Subsection 4. The amendment is complementary to the amendment made by subsection 2.

Subsection 5. The deletion of a reference to manual or mechanical reproduction of books is intended to authorize land registrars to use any available copying technology.

Subsections 6 and 7. Land registrars for areas subject to Part I need not retain original record books if they retain facsimiles of them. Ruled-off mortgages are added to the category of instruments which need not be copied when an abstract index is copied.

Subsections 8 and 9. Section 20a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated abstract index and to the property maps. Pre-system records may be incorporated into the automated abstract index as the Director instructs. Subsections 20 (1), (2) and (3) of the *Registry Act* relate to the non-automated abstract index and will not apply to land in parts of Ontario subject to Part II.

Subsection 10. A reference to the registration requirements of Part I and the regulations made under it is added.

Subsection 11. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsections 12 and 13. Property description requirements for instruments affecting land in parts of Ontario subject to Part I will be somewhat different from existing requirements.

Subsection 14. Affidavits of execution will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I.

Subsections 15 and 16. Where a court of record or a corporation executes an instrument affecting land in a part of Ontario subject to Part I, the execution requirements will be somewhat different from existing requirements. Clause 32a (3) (b) reflects the fact that corporations under the *Business Corporations Act, 1982* are not required to have seals.

Subsection 17. Section 37 of the *Registry Act* deals with addresses for service, a subject which will be covered by regulations under Part I.

Subsection 18. Affidavits of age and spousal status will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I. (Equivalent statements will, however, be included in the prescribed conveyancing forms.)

Subsection 19. Throughout Ontario, affidavits and other evidence of compliance with the *Planning Act, 1983* will no longer be required for the registration of instruments.

Subsection 20. Self-explanatory.

Subsection 21. The amendment is intended to facilitate the ruling off of mortgages and instruments relating exclusively to them under subsections 51 (8) and (11) of the *Registry Act*.

Subsections 22 and 23. The amendments are complementary to the amendment to the law of mortgages made by section 6 of the Bill.

Subsection 24. An entry (a broader term than "memorandum", used in the existing section) will not be capable of being signed (as existing subsection 71 (2) requires) if it is made electronically. The broader concept of certification is used instead, and the land registrar is required, before making corrections, to notify persons who may be adversely affected.

Subsection 25. A reference to the plan index book is deleted because that index will not necessarily be in book form where automated recording is in effect.

Subsection 26. Section 77 of the *Registry Act*, dealing with land registrars' compiled plans and new abstract indexes, is revised in a manner that takes account of current practice and will be compatible with Parts I and II.

Subsection 27. In certain circumstances county and district court judges are empowered to cancel plans of subdivision and direct how the affected lands are to be described. It would be inappropriate for this power to extend to altering property identifiers, which are the key for access to the automated parcel register.

Subsection 28. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 29. References to record books, the inspection of certain indexes and the compulsory retention of original documents are deleted.

Subsection 30. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsections 31 and 32. Self-explanatory.

Subsections 33 and 34. The forms and property descriptions required for deposits relating to land in parts of Ontario subject to Part I will be somewhat different from existing requirements. Deposits as well as their duplicates are to be endorsed with certificates of deposit.

Subsection 35. New subsection 102 (1a) parallels new section 21a, discussed in the note to subsection 22 (11) of the Bill.

Subsection 36. Users of the automated index are entitled to rely on it.

SECTION 23. *Short Forms of Conveyances Act*

Conveyances of land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making sections 1, 2, 3 and 4 of the *Short Forms of Conveyances Act* superfluous.

SECTION 24. *Short Forms of Mortgages Act*

Existing section 6 is, in effect, transferred to section 38a of the *Mortgages Act* (see explanatory note for subsection 20 (2) of the Bill).

Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 1, 2, 3, 4 and 5 of the *Short Forms of Mortgages Act* superfluous.

Bill 66

1984

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

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**PART IV
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DOCUMENTS

1. In this Part,

Interpretation

- (a) "charge" means a charge on land given for the purpose of securing the payment of a debt or the performance of an obligation, and includes a charge under the *Land Titles Act* and a mortgage, but does not include a rent charge;

R.S.O. 1980,
c. 230

- (b) "charge book" means the book maintained under subsection 8 (5);
- (c) "chargee" means a person in whose favour a charge is given;
- (d) "chargor" means a person who gives a charge;
- (e) "Director" means the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*;
- (f) "discharge" means a discharge of a charge and includes a cessation of charge under the *Land Titles Act* and a certificate of discharge of mortgage under the *Registry Act*;
- (g) "document" includes an instrument as defined in clause 1 (f) of the *Registry Act*;
- (h) "land" means land, tenements, hereditaments and appurtenances and any estate or interest therein;
- (i) "land registrar" means a land registrar appointed under the *Land Titles Act* or the *Registry Act*;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Part;
- (l) "successor" means an heir, executor or administrator;
- (m) "transfer" means a conveyance of freehold or leasehold land and includes a deed and a transfer under the *Land Titles Act*, but does not include a lease or a charge;
- (n) "transferee" means a person in whose favour a transfer is given;
- (o) "transferor" means a person who gives a transfer.

R.S.O. 1980,
c. 445

Application
of Part

2. This Part applies to documents affecting or relating to land in the parts of Ontario that are designated by regulation.

Form of
documents
R.S.O. 1980,
cc. 230, 445

3.—(1) A document shall not be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, unless,

- (a) its form and manner of completion and execution comply with this Part and the regulations; or
- (b) it is attached to a document whose form and manner of completion and execution comply with this Part and the regulations.

(2) Despite subsection (1), a document that is executed before the day the land it affects or to which it relates is designated under clause 14 (a) may be registered under the *Registry Act* or the *Land Titles Act*, or deposited under Part II of the *Registry Act*, as if this Act had not been passed.

Transitional
R.S.O. 1980,
cc. 445, 230

(3) Failure to comply with subsection (1) does not, in itself, invalidate a document that has been registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, after the coming into force of this section.

Saving

(4) The Director may authorize the registration under the *Land Titles Act* or the *Registry Act*, or the deposit under Part II of the *Registry Act*, of a document whose form or manner of execution does not comply with this Part and the regulations.

Director may
authorize
registration
or deposit

(5) Where the form or manner of execution of a document does not comply with this Part or the regulations, the county or district court of the county or district in which the land that the document affects or to which it relates is situated may, on an application made on notice to the Director, order that the document be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*.

Court may
order
registration
or deposit

(6) An order or refusal to make an order under subsection (5) may be appealed to the Divisional Court by the applicant or by the Director.

Appeal

4.—(1) A document attached as a schedule to a document whose form is prescribed shall be deemed to be part of the document whose form is prescribed.

Incorporation
of schedules

(2) Where there is a conflict between the contents of a document whose form is prescribed and the contents of a document attached to it as a schedule, the document whose form is prescribed prevails.

Prescribed
form
governs

5.—(1) A transfer in the prescribed form shall be deemed to include the following covenants and release by the transferor, for the transferor and the transferor's successors, to and with the transferee and persons deriving title under the transferee:

Transfer:
implied
covenants

Usual covenants and release

- 1. In a transfer of freehold or leasehold land by the beneficial owner for valuable consideration, unless the transfer is expressed to be a quitclaim:
 - i. That the transferor has the right to convey the land to the transferee.
 - ii. That the transferee shall have quiet enjoyment of the land.
 - iii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iv. That the transferor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - v. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

Covenant re leasehold

- 2. In a transfer of leasehold land by the beneficial owner for valuable consideration:

That, despite anything done, omitted or permitted by the transferor, the lease or grant creating the term or estate for which the land is transferred is, at the time the transfer is given, a valid lease or grant of the property conveyed, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the transfer is given.

Covenants and release by trustee, etc.

- 3. In a transfer of freehold or leasehold land by a transferor who transfers as trustee or chargee, as personal representative of a deceased person, as committee of a mentally incompetent person, or under a court order:
 - i. That the transferor has not done, omitted or permitted anything whereby the land is or

may be encumbered or whereby the transferor is hindered from giving the transfer.

- ii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
- iii. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

4. In a transfer of freehold or leasehold land by way of settlement by a transferor who transfers as settlor:

Settlor's covenant for further assurances

That the transferor and the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the expense of any person deriving title under the transfer, as may be reasonably required.

(2) Where a transfer to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made,

Multiple parties

- (a) by each transferor to the extent of the interest or share transferred by the transferor; and
- (b) with the transferees jointly, if the transfer is made to them jointly, or with each transferee, if the transfer is made to them as tenants in common.

(3) Where a transfer to which subsection (1) applies is given at the direction of the beneficial owner, the transfer shall be deemed to include the appropriate covenants set out in subsection (1) on the part of the beneficial owner as if the beneficial owner were the transferor.

Covenant by beneficial owner directing transfer

(4) A covenant deemed to be included in a transfer by this section may, in a schedule to the transfer, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Amendment of implied covenants

(5) The benefit of a covenant deemed to be included in a transfer by this section runs with the interest of the transferee in the land transferred, and may be enforced by any person in whom the interest or part of it vests.

Enforcement of covenant

Charge
not a
transfer

6.—(1) A charge does not operate as a transfer of the legal estate in the land to the chargee.

Defeasance

(2) A charge ceases to operate when the money and interest secured by the charge are paid, or the obligations whose performance is secured by the charge are performed, in the manner provided by the charge.

Rights and
remedies
preserved

(3) Despite subsection (1), a chargor and chargee are entitled to all the legal and equitable rights and remedies that would be available to them if the chargor had transferred the land to the chargee by way of mortgage, subject to a proviso for redemption.

Charge:
implied
covenants

7.—(1) A charge in the prescribed form shall be deemed to include the following covenants by the chargor, for the chargor and the chargor's successors, with the chargee and the chargee's successors and assigns:

Usual
covenants

1. In a charge of freehold or leasehold land by the beneficial owner:

- i. That the chargor or the chargor's successors will pay, in the manner provided by the charge, the money and interest it secures, and will pay the taxes assessed against the land.
- ii. That the chargor has the right to give the charge.
- iii. That the chargor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
- iv. That the chargor or the chargor's successors will insure the buildings on the land as specified in the charge.
- v. That the chargee on default of payment for the number of days specified in the charge or in the *Mortgages Act*, whichever is longer, may on giving the notice specified in the charge or required by that Act, whichever is longer, enter on and take possession of, receive the rents and profits of, lease or sell the land.
- vi. That where the chargee enters on and takes possession of the land on default as described

in subparagraph v, the chargee shall have quiet enjoyment of the land.

vii. That the chargor or the chargor's successors will, on default, execute such assurances of the land and do such other acts, at the chargee's expense, as may be reasonably required.

viii. That the chargee may distrain for arrears of interest.

ix. That on default of payment of the interest secured by the charge, the principal money shall, at the option of the chargee, become payable.

2. In a charge of freehold land by the beneficial owner, that the chargor has a good title in fee simple to the land, except as the records of the land registry office disclose. Covenant re freehold

3. In a charge of leasehold land by the beneficial owner: Covenant re leasehold

i. That, despite anything done, omitted or permitted by the chargor, the lease or grant creating the term or estate for which the land is held is, at the time the charge is given, a valid lease or grant of the land charged, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the charge is given.

ii. That the chargor or the chargor's successors will, while the moneys secured by the charge remain unpaid, pay, observe and perform all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant and will indemnify the chargee against all costs and damages incurred by reason of any non-payment of rent or non-observance or non-performance of the covenants, conditions and agreements.

(2) Where a charge to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by the chargors jointly and severally, unless the charge specifies otherwise; and
- (b) with the chargees jointly, unless the moneys secured are expressly secured to them in several shares or distinct sums.

Amendment
of implied
covenants

(3) A covenant deemed to be included in a charge by subsection (1) may, in a schedule to the charge, or in a set of standard charge terms filed under subsection 8 (1) and referred to in the charge by its filing number, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Enforcement
of covenant

(4) A covenant deemed to be included in a charge by subsection (1) may be enforced by a successor or assignee of the chargee.

Prescribed
terms

(5) A charge in the prescribed form shall be deemed to include the prescribed standard charge terms, unless a set of standard charge terms filed under subsection 8 (1) is referred to in the charge by its filing number.

Amendment
of prescribed
terms

(6) A prescribed standard charge term deemed to be included in a charge by subsection (5) may, in a schedule to the charge, be expressly excluded or be varied by setting out the term, appropriately varied.

Prescribed
terms to be
included in
charge book

(7) The Director shall include the prescribed standard charge terms in the charge book maintained under subsection 8 (5).

Filing of
standard
charge
terms

8.—(1) A person may file with the Director, in the prescribed manner and form, a set of standard charge terms and, with the consent of the Director, may file a set of standard charge terms in a form other than the prescribed form.

Amendment
of set of
standard
charge terms

(2) A set of standard charge terms filed under subsection (1) may be amended by filing a further set of standard charge terms under subsection (1).

Duties of
Director

(3) Where a set of standard charge terms is filed under subsection (1), the Director shall,

- (a) promptly assign a filing number to the set and advise the person who filed the set of its filing number; and
- (b) ensure that copies of the set, identified by its filing number, are provided to the land registry offices for

the parts of Ontario designated under this Part within thirty days of the day on which the set was filed.

(4) Every set of standard charge terms filed under subsection (1) shall be made available in the prescribed manner and at the prescribed fee for public inspection and copying in the land registry offices for the parts of Ontario designated under this Part on a day not later than thirty days after the day on which the set is filed with the Director.

Public inspection

(5) The Director shall enter all sets of standard charge terms filed under subsection (1) during each calendar year in a charge book and shall as soon as possible after the end of the calendar year,

Annual charge book

(a) provide copies of the charge book to the land registry offices for the parts of Ontario designated under this Part; and

(b) make available copies of the charge book for purchase by the public at the prescribed fee.

9.—(1) A charge shall be deemed to include a set of standard charge terms filed under subsection 8 (1) if the set is referred to in the charge by its filing number.

Effect of filing: incorporation by reference

(2) A term deemed to be included in a charge by subsection (1) may, in a schedule to the charge, be expressly excluded or may be varied by setting out the term, appropriately amended.

Amendment of standard charge terms in individual charge

(3) Where a charge refers to more than one set of standard charge terms by their filing numbers, the charge shall be deemed to include only the set that was filed last.

Only one set to be incorporated by reference

(4) Where there is a conflict between an express term in a charge and a term deemed to be included in the charge by subsection (1), the express term prevails.

Express term governs

10.—(1) A charge that refers to a set of standard charge terms filed under subsection 8 (1) by the set's filing number shall not be registered before a copy of the set is available in the land registry office where the charge is to be registered, as described in subsection 8 (4).

When charge may be registered

(2) The fact that a charge is registered in a manner that contravenes subsection (1) does not, in itself, invalidate the registered charge.

Saving

Disclosure:
offence

11. A person named as chargee in a charge containing standard charge terms that have been filed under subsection 8 (1) who takes the charge before providing the chargor or the chargor's solicitor with a copy of the standard charge terms is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Director
may require
filing

12.—(1) Where the Director is satisfied that a charge presented for registration contains terms that should be filed under subsection 8 (1) because of the frequency of their use in charges in favour of the chargee, the Director may give the chargee notice in the prescribed form and manner that on and after a day specified by the Director, no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization.

Day
to be
specified

(2) The day specified by the Director in a notice given under subsection (1) shall be a day at least 120 days after the date of the notice.

No
registration
where filing
required

(3) Where the Director has given a notice under subsection (1), no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization on or after the day specified by the Director.

Seal not
required

13.—(1) Despite any statute or rule of law, a transfer or other document transferring an interest in land, a charge or discharge need not be executed under seal by any person, and such a document that is not executed under seal has the same effect for all purposes as if executed under seal.

Guarantee

(2) Subsection (1) applies to a guarantee in a charge.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating parts of Ontario for the purposes of this Part;
- (b) prescribing forms for transfers, charges, discharges and other documents to be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, and prescribing the manner of their completion and execution by individuals and corporations;
- (c) authorizing the Director to issue instructions for the completion and execution of documents;

- (d) authorizing the Director to approve forms prescribed under clause (b), and prohibiting the registration of documents in forms prescribed under clause (b) that are not approved by the Director;
- (e) prescribing standard charge terms for the purpose of subsection 7 (5);
- (f) prescribing the form and manner in which sets of standard charge terms are to be filed with the Director under subsection 8 (1) and are to be made available for public inspection and copying;
- (g) prescribing fees payable under subsections 8 (4) and (5);
- (h) prescribing the form and manner in which notice is to be given under section 12;
- (i) prescribing the form and manner in which statements in documents are to be made;
- (j) prescribing the manner in which a party to a document registered under the *Land Titles Act* or the *Registry Act* may notify the land registrar of changes in the party's address for service.

R.S.O. 1980,
cc. 230, 445

PART II

AUTOMATED RECORDING AND PROPERTY MAPPING

15. Where land is designated for the purposes of Part I, the Lieutenant Governor in Council may by regulation designate all or any part of the land for the purpose of implementing a system for automated information recording and retrieval and property mapping.

Automated
recording
and property
mapping in
designated
areas

16.—(1) The Director may by order fix a lower fee than that prescribed under the *Land Titles Act* or the *Registry Act* for any service that relates to land designated under this Part, and the lower fee shall be in effect for a specified period not exceeding three months from the designation of the land to which the service relates.

Temporary
fee
reduction
during
training
period
R.S.O. 1980,
cc. 230, 445

(2) The *Regulations Act* does not apply to an order made under subsection (1).

R.S.O. 1980,
c. 446, does
not apply

PART III

AMENDMENTS TO STATUTE LAW

17.—(1) Section 6 of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Statement of consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it.

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Statement as evidence for subsequent purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof.

(3) Section 23 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . . .

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that are executed on or after the day on which the land is designated under clause 14 (a) of that Act.

18.—(1) Subsection 42 (3) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Proof that property not a matrimonial home
1984, c. . . .

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance, or, where the property is located in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, a statement by the person,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or
- (d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home, but the affidavit or statement shall not be deemed to be sufficient proof that the property is not a matrimonial home where it is made by the attorney of the person making the disposition or encumbrance.

(2) Clause 45 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) where a false affidavit is given or a false statement is made under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit or made the false statement, or
 - (ii) any person who knew at the time it was sworn or made that the affidavit or statement was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

19.—(1) Section 1 of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (aa) “facsimile” means an accurate reproduction of a book, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;
 - (ab) “land” means land, tenements, hereditaments and appurtenances and any interest therein;
-

(ga) "property" means land designated as a property under subsection 141a(2) or (4).

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Fee and receiving record

7. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a manner approved by the Director of Land Registration.

(3) Section 59 of the said Act is amended by adding thereto the following subsection:

Payment re surveys for property mapping

(3a) The Director of Land Registration may direct that all or part of the costs of a survey of land required to facilitate the inclusion of the land in a property map referred to in subsection 141a(3) be paid out of The Land Titles Survey Fund.

(4) Section 60 of the said Act is amended by adding thereto the following subsection:

Reliance on automated index 1984, c. . .

(4a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the parcel register is entitled to compensation from The Land Titles Assurance Fund.

(5) Section 70 of the said Act is repealed and the following substituted therefor:

Description of registered owner

70. Subject to section 67, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by surname and by the first given name in full, followed by another given name, if any, in full.

(6) Subsection 75 (1) of the said Act is amended by striking out "books" in the fourth line and inserting in lieu thereof "records".

(7) Subsection 75 (2) of the said Act is amended by striking out "book" in the second line and inserting in lieu thereof "record".

(8) Subsection 81 (3) of the said Act is repealed and the following substituted therefor:

When registration complete

(3) Registration of an instrument is complete when the instrument and its entry in the proper register are certified in the prescribed manner by the land registrar, deputy or assist-

ant deputy land registrar, and the time of receipt of the instrument shall be deemed to be the time of its registration.

(9) Section 82 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a charge or transfer of registered land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. . . .

(10) The said Act is amended by adding thereto the following section:

83a. The land registrar may,

Land registrar may refuse registration or refrain from recording in certain cases

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

1984, c. . . .

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, affect or relate to an interest in land; and

(b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(11) Section 93 of the said Act is amended by adding thereto the following subsection:

(5a) The authorization mentioned in subsection (5) is not required where the instrument is to be registered as a charge against land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. . . .

(12) The said Act is further amended by adding thereto the following section:

97a. Sections 94, 95, 96 and 97 do not apply to a charge of registered land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

Exception

1984, c. . . .

(13) Section 109 of the said Act is amended by adding thereto the following subsection:

Exception
1984, c. . . . (2) Subsection (1) does not apply to a transfer of registered leasehold land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

(14) The said Act is further amended by adding thereto the following sections:

Application
1984, c. . . . **141a.**—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

Properties and property identifiers
(2) The Director of Land Registration shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties.

Property maps, etc.
(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed.

Idem
(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Parcel register
(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the parcel register and enter every instrument that affects a property in the parcel register under the property identifier assigned to that property.

Other indexes and records
(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments
(7) The Director of Land Registration may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director of Land Registration, in the parcel register under the property identifiers for the properties affected by the instruments.

Application
1984, c. . . . **141b.**—(1) This section applies only to documents affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

- (2) A document shall not be registered unless it contains, Brief description and property identifier, etc.
- (a) a reference to the parcel number, if any, of the land it affects;
 - (b) a reference to the lot, part lot or other unit on the plan or concession it affects;
 - (c) where the document deals with part of a property or part of a parcel, a registrable description of the land it affects; and
 - (d) the property identifier, if any, assigned under subsection 141a(2) or (4) to the property it affects.

- (3) Subsection (2) does not apply to an instrument that is, Exceptions
- (a) a plan; or
 - (b) one of a prescribed class of instruments.

(4) Clauses (2) (b) and (c) do not apply to an instrument that is a discharge of charge purporting to discharge a charge completely. Idem

(15) Section 147 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception 1984, c. . .

(16) Section 162 of the said Act is amended by adding thereto the following subsection:

- (1a) The Lieutenant Governor in Council may make regulations, Idem
- (a) prescribing the manner in which instruments and entries in the register are to be certified at registration;
 - (b) prescribing the form and manner in which entries in the records of land registry offices are to be made;
 - (c) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (d) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (e) requiring land registrars to assign to persons who ask to search the records of the land registry office account numbers and other identification to enable them to do so;
- (f) prescribing the manner in which instruments, books, public records and facsimiles of them are to be produced for inspection;
- (g) prescribing the manner in which copies of instruments, books and public records are to be produced and certified;
- (h) prescribing methods and standards for computer entry, storage and retrieval of information;
- (i) prescribing the manner in which land is to be divided into blocks and properties;
- (j) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (k) prescribing the manner in which property identifiers are to be assigned;
- (l) prescribing the manner in which the abstract index is to be created and maintained;
- (m) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 141a(6);
- (n) prescribing the manner in which instruments are to be entered for the purpose of subsection 141a(7);
- (o) prescribing classes of instruments for the purpose of clause 141b(3) (b);
- (p) requiring that printed copies of the parcel register relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

(17) Subsection 162 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) or (1a) may be limited to one or more land titles divisions or one or more part or parts of a land titles division or divisions.

Application
of regulations

(18) Section 164 of the said Act is amended by adding thereto the following subsections:

(3) Subsection (2) does not apply in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. . . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed,

Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(19) The said Act is further amended by adding thereto the following section:

Computer printout, etc., admissible in evidence

164a.—(1) Where a registered instrument or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the registered instrument or written record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original registered instrument or written record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(20) Subsection 165 (1) of the said Act is repealed and the following substituted therefor:

Penalty for altering or removing records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument, or by any means or in any way adds to or takes from the contents of any book, record, plan or instrument, and any person who, without lawful authority, removes or attempts to remove any book, record, plan or instrument from the place where it is kept is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan or instrument that the person alters, removes or attempts to remove.

(21) Section 166 of the said Act is amended by adding thereto the following subsection:

Exception

(5) Subsections (1), (2), (3) and (4) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

20.—(1) The *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a. Sections 7 and 8 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. . . .

(2) The said Act is further amended by adding thereto the following section:

38a. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with this Part, is as effectual as if *The Short Forms of Mortgages Amendment Act, 1964* had not been passed. Transitional
provision
1964, c. 110

21. Section 49 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsections:

(21a) Where a deed or transfer,

(a) contains a statement by the grantor, verifying that to the best of his or her knowledge and belief the deed or transfer does not contravene this section;

(b) contains a statement by the grantor's solicitor, verifying that,

(i) he or she has explained the effect of this section to the grantor,

(ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,

(iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and

(iv) he or she is an Ontario solicitor in good standing; and

(c) contains a statement by the grantee's solicitor, verifying that,

Exception
re prescribed
statements

- (i) he or she has investigated the title to the land and, where relevant, to abutting land,
- (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
- (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
- (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and

R.S.O. 1980,
cc. 230, 445

- (d) is registered under the *Land Titles Act* or the *Registry Act*,

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered.

Search
period re
*Planning
Act, 1983*

(21b) For the purposes of the statement referred to in sub-clause (21a) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (21a) (a), (b) and (c).

Exempting
orders

(21c) The Minister may by order designate any part of Ontario as land to which subsection (21a) shall not apply after the day a certified copy or duplicate of the order is registered

in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*.

R.S.O. 1980, c. 445

(21d) Every person who knowingly makes a false statement under subsection (21a) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of,

Offence

- (a) the land in respect of which the statement is made; and
- (b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement.

22.—(1) Section 1 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

(ea) “facsimile” means an accurate reproduction of a book, instrument, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;

.

(oa) “property” means land designated as a property under subsection 20a(2) or (4).

(2) Section 16 of the said Act is amended by adding thereto the following subsections:

(3) Subsections (1) and (2) do not apply in the parts of Ontario that are designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. . . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed,

Production of
instruments,
copies, etc.

- (a) produce for inspection in the office during office hours,
 - (i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(3) The said Act is amended by adding thereto the following section:

Computer printout, etc., admissible in evidence

16a.—(1) Where a registered instrument, a document deposited under Part II or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

(a) represents the instrument, document or record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the original instrument, document or record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

(a) represents the record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(4) Section 17 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to an instrument or memorial affecting or relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(5) Clause 19 (2) (a) of the said Act is amended by striking out "manually or mechanically" in the second line.

(6) Subsection 19 (4) of the said Act is amended by inserting after "book" in the fifth line "or a facsimile thereof".

(7) Subsection 19 (6) of the said Act is repealed and the following substituted therefor:

(6) Where an abstract index is copied, every instrument, except an instrument to which subsection 62 (2), 51 (10) or 51 (11) applies, shall be copied, and the land registrar shall carefully preserve the original abstract index or a facsimile thereof and produce it upon demand. Instruments to be included in copy of abstract index

(8) Section 20 of the said Act is amended by adding thereto the following subsection:

(4) Subsections (1), (2) and (3) do not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(9) The said Act is further amended by adding thereto the following section:

20a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Application
1984, c. . . .

(2) The Director shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties. Properties and property identifiers

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed. Property maps, etc.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Abstract index

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the abstract index and enter every instrument that affects a property in the abstract index under the property identifier assigned to that property.

Other indexes and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments

(7) The Director may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director, in the abstract index under the property identifiers for the properties affected by the instruments.

(10) Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Instruments that may be registered

(1) Except as otherwise provided in and subject to,

(a) this Act and the regulations; and

(b) in respect of instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, Part I of that Act and the regulations made thereunder,

1984, c. . .

any instrument within the meaning of clause 1 (f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(11) The said Act is further amended by adding thereto the following section:

Land registrar may refuse registration or refrain from recording in certain cases

21a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the

1984, c. . .

land registrar's opinion, affect or relate to an interest in land; and

- (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(12) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. . . .

(13) The said Act is further amended by adding thereto the following section:

22a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Application
1984, c. . . .

(2) An instrument shall not be registered unless it contains,

Brief description and property identifier, etc.

- (a) a reference to the lot, part lot or other unit on the plan or concession it affects;
- (b) a registrable description of the land it affects, unless a registrable description of the same land is already recorded in the abstract index; and
- (c) the property identifier, if any, assigned under subsection 20a(2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is,

Exceptions

- (a) a plan;
- (b) identified by the letters "G.R." and to be registered under subsection 18 (6);
- (c) a by-law that does not directly affect title to land;
- (d) presented for registration together with a declaration in the prescribed form made by a party to the instrument or by the party's solicitor, attorney under registered power of attorney, or heirs, executors or administrators, or, where the party is a cor-

poration, by an officer thereof, stating that the instrument affects land within the registry division, and containing the information required by subsection (2);

(e) a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, presented for registration together with a declaration in the prescribed form, made by one of the parties to the action or by the party's solicitor, stating that the instrument affects land within the registry division, and containing the information required by subsection (2); or

(f) one of a prescribed class of instruments.

Further recording

(4) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (3) (d) and (e).

(14) The said Act is further amended by adding thereto the following section:

Exception

1984, c. . .

25a. Sections 25 and 26 do not apply to an instrument that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(15) Section 32 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . .

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(16) The said Act is further amended by adding thereto the following section:

Application

1984, c. . .

32a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Seal of court with officer's signature suffices for registration

(2) The seal of a court of record affixed to an instrument is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge or the officer of the court signing it.

Execution by corporation

(3) Where an instrument is executed by a corporation,

- (a) the corporation's seal affixed to the instrument, with the signature of an authorized person; or
- (b) the signature of an authorized person, with the person's statement that he or she has authority to bind the corporation,

are sufficient evidence, for the purpose of registration, of the due execution of the instrument by the corporation.

(17) Section 37 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. . .

(18) Section 41 of the said Act is amended by adding thereto the following subsection:

(12) Subsections (1), (2), (3), (4), (6), (7) and (10) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Where subs. (1-4, 6, 7, 10)

do not apply 1984, c. . .

(19) Section 42 of the said Act is repealed.

(20) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by surname and by the first given name in full, followed by another given name, if any, in full.

Description of grantee

(2a) Failure to comply with subsection (2) does not, in itself, invalidate a registered instrument.

Saving

(21) Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate shall mention the date of registration and the registration number of,

Contents

- (a) each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money; and
- (b) every other registered instrument relating exclusively to the mortgage.

(22) Section 58 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(2) Subsection (1) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of registration of discharge of mortgage predating

(3) Where a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day the land is designated under clause 14 (a) of that Act is discharged, a certificate of discharge under this Act and the regulations that complies with Part I of that Act and the regulations made thereunder is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be.

(23) Section 60 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(4a) Subsection (4) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of certificate

(4b) The certificate when registered, if it is of payment in full of a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day on which the land is designated under clause 14 (a) of that Act, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

(24) Subsection 71 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 17, section 3, is repealed and the following substituted therefor:

Method

(2) The land registrar shall, immediately after becoming aware of any omission or error in recording or deleting,

- (a) notify all persons who may be adversely affected by the necessary entries, alterations or corrections; and
- (b) make, date and certify the necessary entries, alterations or corrections in the prescribed manner.

(25) Section 76 of the said Act is amended by striking out “book” in the first line.

(26) Section 77 of the said Act is repealed and the following substituted therefor:

77.—(1) Where and as the examiner of surveys directs, the land registrar, taking account of registered instruments and deposited plans, shall prepare and register a plan of an area designated by the examiner of surveys. Land registrar's compiled plan

(2) A plan prepared and registered under subsection (1) shall be known as a Land Registrar's Compiled Plan. Idem

(3) Where and as the Director directs, the land registrar, taking account of registered instruments and deposited plans, shall, New abstract index

(a) divide an area designated by the Director into parcels for abstract purposes;

(b) create a new heading in the abstract index for each parcel; and

(c) record previously registered instruments and deposited documents affecting or relating to the designated area under the new headings.

(4) A parcel may include a reference to any easement in respect of which the land is the dominant or servient tenement. Easements

(27) Clause 82 (1) (d) of the said Act is amended by adding at the end thereof “but shall not assign a property identifier to the lands or alter any property identifier that has been assigned under subsection 20a(2) or (4)”.

(28) Section 90 of the said Act is repealed and the following substituted therefor:

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a manner approved by the Director. Record of fees, etc.

(29) Clauses 91 (b), (e) and (g) of the said Act are repealed and the following substituted therefor:

(b) see that entries and registrations are made and certified in a proper manner, that the indexes and records

ords are properly kept and that any original documents are properly stored;

instruction of land registrar

- (g) direct the land registrar how and in what manner to do any particular act or amend or correct whatever the Director may find amiss.

(30) Subsection 95 (1) of the said Act is repealed and the following substituted therefor:

Penalty for altering or removing records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document or by any means or in any way adds to or takes from the contents of any book, record, plan, instrument or document, and any person who, without lawful authority, removes or attempts to remove any book, record, plan, instrument or document from the place where it is kept, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan, instrument or document that the person alters, removes or attempts to remove.

(31) Subsection 96 (1) of the said Act is amended by adding thereto the following clauses:

- (ka) prescribing methods and standards for computer entry, storage and retrieval of information;
- (pa) prescribing the manner in which entries are to be certified;
- (pb) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (pc) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;
- (pd) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (pe) requiring land registrars to assign to persons who ask to search the records of the land registry office

account numbers and other identification to enable them to do so;

- (pf) prescribing the manner in which instruments, documents, books, public records and facsimiles of them are to be produced for inspection;
- (pg) prescribing the manner in which copies of instruments, documents, books and public records are to be produced and certified;
- (ph) prescribing the manner in which land is to be divided into blocks and properties;
- (pi) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (pj) prescribing the manner in which property identifiers are to be assigned;
- (pk) prescribing the manner in which the abstract index is to be created and maintained;
- (pl) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 20a(6);
- (pm) prescribing the manner in which instruments are to be entered for the purpose of subsection 20a(7);
- (pn) prescribing classes of instruments for the purpose of clause 22a(4) (f);
- (po) requiring that printed copies of the abstract index relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

1984, c. . .

(32) Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions or one or more part or parts of a registry division or divisions.

Application
of regulations

(33) Section 100 of the said Act is amended by adding thereto the following subsections:

Exception
1984, c. . . .

(2) Subsection (1) does not apply to a deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Requisition
to be filed

(3) Upon every deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form containing a description of the land to which the deposit relates that complies with subsection 22a(2).

(34) Subsections 101 (1) and (3) of the said Act are repealed and the following substituted therefor:

Numbering,
etc.

(1) Upon receiving a requisition under subsection 100 (1) and the documents mentioned in it, the land registrar shall cause the word "deposited" with the date and deposit number to be endorsed on the requisition.

Certificate
of deposit

(1a) Upon receiving a requisition under subsection 100 (3), the land registrar shall cause a certificate of deposit in the prescribed form to be endorsed on the requisition and every duplicate of it.

Entry in
abstract
index

(3) The land registrar shall enter in the abstract index against each lot, parcel or property mentioned in the requisition the words, "See Deposit No.....", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot.

(35) Section 102 of the said Act is amended by adding thereto the following subsection:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

(1a) The land registrar may,

(a) refuse to accept for deposit a document,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that relates to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, relate to an interest in land; and

1984, c. . . .

- (b) refrain from recording a part of a deposited document relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the document does not, in the land registrar's opinion, relate to an interest in land.

(36) Section 108 of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 17, section 5, is amended by adding thereto the following subsection:

(3a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the abstract index is entitled to compensation from The Land Titles Assurance Fund, and clauses (2) (a) and (b) do not apply to the person's right to compensation.

Reliance on automated index 1984, c. . .

23. The *Short Forms of Conveyances Act*, being chapter 472 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

5. Sections 1, 2, 3 and 4 do not apply to a deed of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where ss. 1-4 do not apply 1984, c. . .

24. Section 6 of the *Short Forms of Mortgages Act*, being chapter 474 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. Sections 1, 2, 3, 4 and 5 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where ss. 1-5 do not apply 1984, c. . .

PART IV

GENERAL

25.—(1) This Act, except subsection 22 (25), comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

(2) Subsection 22 (25) shall be deemed to have come into force on the 1st day of December, 1983.

Idem

26. The short title of this Act is the *Land Registration Reform Act, 1984*.

Short title

Bill 66

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

1st Reading May 14th, 1984
2nd Reading June 21st, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill, intended to facilitate the wider use of modern information technology in Ontario's land registration systems, is designed to take effect across the province in stages.

Part I (Documents) will apply to the parts of Ontario designated by regulation. Its provisions deal primarily with the form and execution of conveyancing documents and are capable of functioning in registry offices which are not automated. Users will be required to employ simplified standard forms from which all affidavits and all seals (except corporate seals) have been eliminated. A scheme allowing the registration of short form mortgages, incorporating standard terms which will be on file but not repeated in each mortgage document, is included.

Part II (Automated Recording and Property Mapping) authorizes the further designation of areas to which Part I already applies, as areas in which automated recording and property mapping systems will be employed.

Part III contains amendments to nine related statutes.

Part I (DOCUMENTS)

SECTION 1. Self-explanatory.

SECTION 2. Part I is to apply to conveyancing documents that affect land in the areas designated by regulation.

SECTION 3. Conveyancing documents, to qualify for registration under the *Registry Act* or the *Land Titles Act*, or deposit under the *Registry Act*, must comply with Part I and the regulations. However, documents executed before the relevant area was brought under Part I are exempted from this requirement, and the Director of Land Registration and District Court judges are also empowered to permit the registration or deposit of documents which do not satisfy the requirements of Part I and the regulations. Non-compliance with the registration requirements of Part I and the regulations does not invalidate a document once registered or deposited.

SECTION 4. Documents which do not satisfy the formal requirements of Part I and the regulations may be registered if they are attached to documents which do satisfy those requirements. (See also clause 3 (1) (b) of the Bill.)

SECTION 5. The traditional four covenants and release and various covenants for specific situations, currently deemed to be included in deeds and transfers by virtue of section 23 of the *Conveyancing and Law of Property Act* and the *Short Forms of Conveyances Act*, are repeated in more modern language and deemed to be included in transfers to which Part I applies.

SECTION 6. Mortgages of *Registry Act* land (unlike mortgages of *Land Titles Act* land) currently operate as conveyances of the legal estate in the land to the mortgagee, the mortgagor retaining only the equity of redemption. Section 6 eliminates this concept from mortgages of land to which Part I applies, while preserving all the rights and remedies enjoyed by mortgagors and mortgagees.

SECTION 7. The traditional covenants currently deemed to be included in mortgages by virtue of sections 7 and 8 of the *Mortgages Act* and the *Short Forms of Mortgages Act*, adjusted to take account of the amendment made by section 6 of the Bill, are repeated in more modern language and deemed to be included in mortgages (referred to throughout the Bill as "charges") to which Part I applies.

A mortgage in the prescribed form is deemed to include any standard mortgage terms that are prescribed by regulation, unless they are specifically excluded or the short

form scheme is used (see explanatory note for sections 8 to 12 of the Bill). This will permit the adoption of basic uniform mortgage terms in routine transactions.

SECTIONS 8 to 12. These sections create a scheme for the registration of short form mortgages. A lender who has filed a set of standard mortgage terms with the Director may register short form mortgages which incorporate the standard mortgage terms by referring to the set's filing number. Provision is made for the variation of terms in individual short form mortgages. A lender who wishes to make general amendments to the standard mortgage terms must file a new set of terms.

Lenders are required to provide copies of their standard mortgage terms to borrowers before a mortgage is executed.

The Director may require lenders to file standard mortgage terms that they use frequently and to register short form rather than long form mortgages.

SECTION 13. Parties executing conveyancing documents will no longer be required to do so under seal.

SECTION 14. Self-explanatory.

Part II (AUTOMATED RECORDING AND PROPERTY MAPPING)

SECTION 15. Areas to which Part I applies may be further designated by regulation as areas in which automated recording and property mapping systems will be employed.

SECTION 16. During the first three months of experience with the automated system in a particular area, registration and search fees may be reduced temporarily by the Director of Land Registration without the necessity of amending the general fee regulations made under the *Land Titles Act* and the *Registry Act*.

Part III (AMENDMENTS TO STATUTE LAW)

SECTION 17. *Conveyancing and Law of Property Act*

Subsections 1 and 2. References to a receipt for consideration money in sections 6 and 7 of the Act are replaced by references to a statement of consideration money, because the form of transfer contemplated by Part I of the Bill will contain a recital of the consideration rather than a receipt as such.

Subsection 3. Conveyances of land in parts of Ontario subject to Part I of the Bill will include the implied covenants found in section 5 of the Bill, making subsections 23 (1), (2), (3) and (4) of the *Conveyancing and Law of Property Act* superfluous.

SECTION 18. *Family Law Reform Act*

Subsection 1. In areas subject to Part I of the Bill, a statement by a person conveying or charging land will be acceptable as an alternative to the affidavit contemplated by subsection 42 (3) of the *Family Law Reform Act*.

The revised wording of the subsection clarifies that the affidavit (or statement) must be made by the person himself or herself.

Subsection 2. The sanction provided in clause 45 (1) (f) of the Act against giving a false affidavit under subsection 42 (3) is extended to false statements under that subsection.

SECTION 19. *Land Titles Act*

Subsection 1. Self-explanatory.

Subsection 2. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 3. Self-explanatory.

Subsection 4. Users of the automated index are entitled to rely on it.

Subsection 5. Self-explanatory.

Subsections 6 and 7. The broader word "record" is substituted for the word "book" because land registry records will not necessarily be in book form where automated recording is in effect.

Subsection 8. Entries will not be capable of being signed (as existing subsection 81 (3) of the *Land Titles Act* requires) if they are made electronically. The broader concept of certification is used instead.

Subsection 9. The new subsection is complementary to section 13 of the Bill.

Subsection 10. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsection 11. Subsection 93 (5) of the *Land Titles Act* requires the authorization of the parties or their solicitors for the registration of a bond mortgage as a charge on land. Where Part I of the Bill applies bond mortgages will be registered as schedules to the prescribed form of charge, executed by the party giving the charge, and specific authorization for registration will no longer be necessary.

Subsection 12. Charges of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 94, 95, 96 and 97 of the *Land Titles Act* superfluous.

Subsection 13. Transfers of leasehold land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making section 109 of the *Land Titles Act* superfluous.

Subsection 14. Section 141a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated parcel register and to the property maps. Pre-system records may be incorporated into the automated parcel register as the Director instructs.

Section 141b applies to all Part I lands and sets standards for property descriptions.

Subsection 15. Section 147 of the *Land Titles Act* allows land registrars to prepare index plans to facilitate property description. No new index plans will be required for lands that are subject to Part II and organized according to property identifiers.

Subsections 16 and 17. Self-explanatory.

Subsection 18. Land registrars for areas subject to Part I need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 19. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the

original input, although it may appear in a different form, and to provide that output may also be admitted where there is no original as such.

Subsection 20. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsection 21. Subsections 166 (1), (2), (3) and (4) of the *Land Titles Act* deal with addresses for service, a subject which will be covered by regulations under Part I.

SECTION 20. *Mortgages Act*

Subsection 1. Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 7 and 8 of the *Mortgages Act* superfluous.

Subsection 2. The proposed section is identical to existing section 6 of the *Short Forms of Mortgages Act*. Since that Act will be consulted less frequently as Part I is extended across the province (see section 25 of the Bill), this provision is, in effect, transferred to the *Mortgages Act*.

SECTION 21. *Planning Act, 1983*

Proposed subsection 49 (21a), applicable throughout Ontario, provides that where a deed or transfer contains prescribed statements by the grantor and lawyers on both sides, any contraventions of the *Planning Act* up to and including the deed or transfer are, in effect, forgiven.

The search of title for *Planning Act* purposes carried out by a grantee's lawyer to support his or her prescribed statement need not go back beyond the most recent set of prescribed statements that are registered.

The Minister of Municipal Affairs and Housing may, by an order that takes effect upon registration, withdraw any land from the application of subsection 49 (21a).

A false statement made under subsection 49 (21a) is an offence punishable by a fine whose maximum level represents the value of the improperly subdivided lands immediately after the subdivision took place.

SECTION 22. *Registry Act*

Subsection 1. Self-explanatory.

Subsection 2. Land registrars for areas subject to Part I of the Bill need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 3. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the original input, although it may appear in a different form, and that output may also be admitted where there is no original as such.

Subsection 4. The amendment is complementary to the amendment made by subsection 2.

Subsection 5. The deletion of a reference to manual or mechanical reproduction of books is intended to authorize land registrars to use any available copying technology.

Subsections 6 and 7. Land registrars for areas subject to Part I need not retain original record books if they retain facsimiles of them. Ruled-off mortgages are added to the category of instruments which need not be copied when an abstract index is copied.

Subsections 8 and 9. Section 20a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated abstract index and to the property maps. Pre-system records may be incorporated into the automated abstract index as the Director instructs. Subsections 20 (1), (2) and (3) of the *Registry Act* relate to the non-automated abstract index and will not apply to land in parts of Ontario subject to Part II.

Subsection 10. A reference to the registration requirements of Part I and the regulations made under it is added.

Subsection 11. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsections 12 and 13. Property description requirements for instruments affecting land in parts of Ontario subject to Part I will be somewhat different from existing requirements.

Subsection 14. Affidavits of execution will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I.

Subsections 15 and 16. Where a court of record or a corporation executes an instrument affecting land in a part of Ontario subject to Part I, the execution requirements will be somewhat different from existing requirements. Clause 32a (3) (b) reflects the fact that corporations under the *Business Corporations Act, 1982* are not required to have seals.

Subsection 17. Section 37 of the *Registry Act* deals with addresses for service, a subject which will be covered by regulations under Part I.

Subsection 18. Affidavits of age and spousal status will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I. (Equivalent statements will, however, be included in the prescribed conveyancing forms.)

Subsection 19. Throughout Ontario, affidavits and other evidence of compliance with the *Planning Act, 1983* will no longer be required for the registration of instruments.

Subsection 20. Self-explanatory.

Subsection 21. The amendment is intended to facilitate the ruling off of mortgages and instruments relating exclusively to them under subsections 51 (8) and (11) of the *Registry Act*.

Subsections 22 and 23. The amendments are complementary to the amendment to the law of mortgages made by section 6 of the Bill.

Subsection 24. An entry (a broader term than "memorandum", used in the existing section) will not be capable of being signed (as existing subsection 71 (2) requires) if it is made electronically. The broader concept of certification is used instead, and the land registrar is required, before making corrections, to notify persons who may be adversely affected.

Subsection 25. A reference to the plan index book is deleted because that index will not necessarily be in book form where automated recording is in effect.

Subsection 26. Section 77 of the *Registry Act*, dealing with land registrars' compiled plans and new abstract indexes, is revised in a manner that takes account of current practice and will be compatible with Parts I and II.

Subsection 27. In certain circumstances county and district court judges are empowered to cancel plans of subdivision and direct how the affected lands are to be described. It would be inappropriate for this power to extend to altering property identifiers, which are the key for access to the automated parcel register.

Subsection 28. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 29. References to record books, the inspection of certain indexes and the compulsory retention of original documents are deleted.

Subsection 30. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsections 31 and 32. Self-explanatory.

Subsections 33 and 34. The forms and property descriptions required for deposits relating to land in parts of Ontario subject to Part I will be somewhat different from existing requirements. Deposits as well as their duplicates are to be endorsed with certificates of deposit.

Subsection 35. New subsection 102 (1a) parallels new section 21a, discussed in the note to subsection 22 (11) of the Bill.

Subsection 36. Users of the automated index are entitled to rely on it.

SECTION 23. *Short Forms of Conveyances Act*

Conveyances of land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making sections 1, 2, 3 and 4 of the *Short Forms of Conveyances Act* superfluous.

SECTION 24. *Short Forms of Mortgages Act*

Existing section 6 is, in effect, transferred to section 38a of the *Mortgages Act* (see explanatory note for subsection 20 (2) of the Bill).

Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 1, 2, 3, 4 and 5 of the *Short Forms of Mortgages Act* superfluous.

Bill 66

1984

**An Act respecting Conveyancing
Documents and Procedures and the
Recording of Title to Real Property**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DOCUMENTS

1. In this Part,

Interpretation

- (a) "charge" means a charge on land given for the purpose of securing the payment of a debt or the performance of an obligation, and includes a charge under the *Land Titles Act* and a mortgage, but does not include a rent charge;

R.S.O. 1980.
c. 230

- (b) "charge book" means the book maintained under subsection 8 (5);
- (c) "chargee" means a person in whose favour a charge is given;
- (d) "chargor" means a person who gives a charge;
- (e) "Director" means the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*;
- (f) "discharge" means a discharge of a charge and includes a cessation of charge under the *Land Titles Act* and a certificate of discharge of mortgage under the *Registry Act*;
- (g) "document" includes an instrument as defined in clause 1 (f) of the *Registry Act*;
- (h) "land" means land, tenements, hereditaments and appurtenances and any estate or interest therein;
- (i) "land registrar" means a land registrar appointed under the *Land Titles Act* or the *Registry Act*;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Part;
- (l) "successor" means an heir, executor or administrator;
- (m) "transfer" means a conveyance of freehold or leasehold land and includes a deed and a transfer under the *Land Titles Act*, but does not include a lease or a charge;
- (n) "transferee" means a person in whose favour a transfer is given;
- (o) "transferor" means a person who gives a transfer.

R.S.O. 1980,
c. 445

Application
of Part

2. This Part applies to documents affecting or relating to land in the parts of Ontario that are designated by regulation.

Form of
documents
R.S.O. 1980,
cc. 230, 445

3.—(1) A document shall not be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, unless,

- (a) its form and manner of completion and execution comply with this Part and the regulations; or
- (b) it is attached to a document whose form and manner of completion and execution comply with this Part and the regulations.

(2) Despite subsection (1), a document that is executed before the day the land it affects or to which it relates is designated under clause 14 (a) may be registered under the *Registry Act* or the *Land Titles Act*, or deposited under Part II of the *Registry Act*, as if this Act had not been passed.

Transitional
R.S.O. 1980,
cc. 445, 230

(3) Failure to comply with subsection (1) does not, in itself, invalidate a document that has been registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, after the coming into force of this section.

Saving

(4) The Director may authorize the registration under the *Land Titles Act* or the *Registry Act*, or the deposit under Part II of the *Registry Act*, of a document whose form or manner of execution does not comply with this Part and the regulations.

Director may
authorize
registration
or deposit

(5) Where the form or manner of execution of a document does not comply with this Part or the regulations, the county or district court of the county or district in which the land that the document affects or to which it relates is situated may, on an application made on notice to the Director, order that the document be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*.

Court may
order
registration
or deposit

(6) An order or refusal to make an order under subsection (5) may be appealed to the Divisional Court by the applicant or by the Director.

Appeal

4.—(1) A document attached as a schedule to a document whose form is prescribed shall be deemed to be part of the document whose form is prescribed.

Incorporation
of schedules

(2) Where there is a conflict between the contents of a document whose form is prescribed and the contents of a document attached to it as a schedule, the document whose form is prescribed prevails.

Prescribed
form
governs

5.—(1) A transfer in the prescribed form shall be deemed to include the following covenants and release by the transferor, for the transferor and the transferor's successors, to and with the transferee and persons deriving title under the transferee:

Transfer:
implied
covenants

Usual covenants and release

1. In a transfer of freehold or leasehold land by the beneficial owner for valuable consideration, unless the transfer is expressed to be a quitclaim:
 - i. That the transferor has the right to convey the land to the transferee.
 - ii. That the transferee shall have quiet enjoyment of the land.
 - iii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iv. That the transferor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - v. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

Covenant re leasehold

2. In a transfer of leasehold land by the beneficial owner for valuable consideration:

That, despite anything done, omitted or permitted by the transferor, the lease or grant creating the term or estate for which the land is transferred is, at the time the transfer is given, a valid lease or grant of the property conveyed, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the transfer is given.

Covenants and release by trustee, etc.

3. In a transfer of freehold or leasehold land by a transferor who transfers as trustee or chargee, as personal representative of a deceased person, as committee of a mentally incompetent person, or under a court order:
 - i. That the transferor has not done, omitted or permitted anything whereby the land is or

may be encumbered or whereby the transferor is hindered from giving the transfer.

- ii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
- iii. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

4. In a transfer of freehold or leasehold land by way of settlement by a transferor who transfers as settlor:

Settlor's covenant for further assurances

That the transferor and the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the expense of any person deriving title under the transfer, as may be reasonably required.

(2) Where a transfer to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made,

Multiple parties

- (a) by each transferor to the extent of the interest or share transferred by the transferor; and
- (b) with the transferees jointly, if the transfer is made to them jointly, or with each transferee, if the transfer is made to them as tenants in common.

(3) Where a transfer to which subsection (1) applies is given at the direction of the beneficial owner, the transfer shall be deemed to include the appropriate covenants set out in subsection (1) on the part of the beneficial owner as if the beneficial owner were the transferor.

Covenant by beneficial owner directing transfer

(4) A covenant deemed to be included in a transfer by this section may, in a schedule to the transfer, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Amendment of implied covenants

(5) The benefit of a covenant deemed to be included in a transfer by this section runs with the interest of the transferee in the land transferred, and may be enforced by any person in whom the interest or part of it vests.

Enforcement of covenant

Charge
not a
transfer

6.—(1) A charge does not operate as a transfer of the legal estate in the land to the chargee.

Defeasance

(2) A charge ceases to operate when the money and interest secured by the charge are paid, or the obligations whose performance is secured by the charge are performed, in the manner provided by the charge.

Rights and
remedies
preserved

(3) Despite subsection (1), a chargor and chargee are entitled to all the legal and equitable rights and remedies that would be available to them if the chargor had transferred the land to the chargee by way of mortgage, subject to a proviso for redemption.

Charge:
implied
covenants

7.—(1) A charge in the prescribed form shall be deemed to include the following covenants by the chargor, for the chargor and the chargor's successors, with the chargee and the chargee's successors and assigns:

Usual
covenants

1. In a charge of freehold or leasehold land by the beneficial owner:
 - i. That the chargor or the chargor's successors will pay, in the manner provided by the charge, the money and interest it secures, and will pay the taxes assessed against the land.
 - ii. That the chargor has the right to give the charge.
 - iii. That the chargor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - iv. That the chargor or the chargor's successors will insure the buildings on the land as specified in the charge.
 - v. That the chargee on default of payment for the number of days specified in the charge or in the *Mortgages Act*, whichever is longer, may on giving the notice specified in the charge or required by that Act, whichever is longer, enter on and take possession of, receive the rents and profits of, lease or sell the land.
 - vi. That where the chargee enters on and takes possession of the land on default as described

in subparagraph v, the chargee shall have quiet enjoyment of the land.

- vii. That the chargor or the chargor's successors will, on default, execute such assurances of the land and do such other acts, at the chargee's expense, as may be reasonably required.
- viii. That the chargee may distrain for arrears of interest.
- ix. That on default of payment of the interest secured by the charge, the principal money shall, at the option of the chargee, become payable.

2. In a charge of freehold land by the beneficial owner, that the chargor has a good title in fee simple to the land, except as the records of the land registry office disclose. Covenant re freehold

3. In a charge of leasehold land by the beneficial owner: Covenant re leasehold

i. That, despite anything done, omitted or permitted by the chargor, the lease or grant creating the term or estate for which the land is held is, at the time the charge is given, a valid lease or grant of the land charged, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the charge is given.

ii. That the chargor or the chargor's successors will, while the moneys secured by the charge remain unpaid, pay, observe and perform all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant and will indemnify the chargee against all costs and damages incurred by reason of any non-payment of rent or non-observance or non-performance of the covenants, conditions and agreements.

(2) Where a charge to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by the chargors jointly and severally, unless the charge specifies otherwise; and
- (b) with the chargees jointly, unless the moneys secured are expressly secured to them in several shares or distinct sums.

Amendment
of implied
covenants

(3) A covenant deemed to be included in a charge by subsection (1) may, in a schedule to the charge, or in a set of standard charge terms filed under subsection 8 (1) and referred to in the charge by its filing number, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Enforcement
of covenant

(4) A covenant deemed to be included in a charge by subsection (1) may be enforced by a successor or assignee of the chargee.

Prescribed
terms

(5) A charge in the prescribed form shall be deemed to include the prescribed standard charge terms, unless a set of standard charge terms filed under subsection 8 (1) is referred to in the charge by its filing number.

Amendment
of prescribed
terms

(6) A prescribed standard charge term deemed to be included in a charge by subsection (5) may, in a schedule to the charge, be expressly excluded or be varied by setting out the term, appropriately varied.

Prescribed
terms to be
included in
charge book

(7) The Director shall include the prescribed standard charge terms in the charge book maintained under subsection 8 (5).

Filing of
standard
charge
terms

8.—(1) A person may file with the Director, in the prescribed manner and form, a set of standard charge terms and, with the consent of the Director, may file a set of standard charge terms in a form other than the prescribed form.

Amendment
of set of
standard
charge terms

(2) A set of standard charge terms filed under subsection (1) may be amended by filing a further set of standard charge terms under subsection (1).

Duties of
Director

(3) Where a set of standard charge terms is filed under subsection (1), the Director shall,

- (a) promptly assign a filing number to the set and advise the person who filed the set of its filing number; and
- (b) ensure that copies of the set, identified by its filing number, are provided to the land registry offices for

the parts of Ontario designated under this Part within thirty days of the day on which the set was filed.

(4) Every set of standard charge terms filed under subsection (1) shall be made available in the prescribed manner and at the prescribed fee for public inspection and copying in the land registry offices for the parts of Ontario designated under this Part on a day not later than thirty days after the day on which the set is filed with the Director.

Public inspection

(5) The Director shall enter all sets of standard charge terms filed under subsection (1) during each calendar year in a charge book and shall as soon as possible after the end of the calendar year,

Annual charge book

(a) provide copies of the charge book to the land registry offices for the parts of Ontario designated under this Part; and

(b) make available copies of the charge book for purchase by the public at the prescribed fee.

9.—(1) A charge shall be deemed to include a set of standard charge terms filed under subsection 8 (1) if the set is referred to in the charge by its filing number.

Effect of filing: incorporation by reference

(2) A term deemed to be included in a charge by subsection (1) may, in a schedule to the charge, be expressly excluded or may be varied by setting out the term, appropriately amended.

Amendment of standard charge terms in individual charge

(3) Where a charge refers to more than one set of standard charge terms by their filing numbers, the charge shall be deemed to include only the set that was filed last.

Only one set to be incorporated by reference

(4) Where there is a conflict between an express term in a charge and a term deemed to be included in the charge by subsection (1), the express term prevails.

Express term governs

10.—(1) A charge that refers to a set of standard charge terms filed under subsection 8 (1) by the set's filing number shall not be registered before a copy of the set is available in the land registry office where the charge is to be registered, as described in subsection 8 (4).

When charge may be registered

(2) The fact that a charge is registered in a manner that contravenes subsection (1) does not, in itself, invalidate the registered charge.

Saving

Disclosure:
offence

11. A person named as chargee in a charge containing standard charge terms that have been filed under subsection 8 (1) who takes the charge before providing the chargor or the chargor's solicitor with a copy of the standard charge terms is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Director
may require
filing

12.—(1) Where the Director is satisfied that a charge presented for registration contains terms that should be filed under subsection 8 (1) because of the frequency of their use in charges in favour of the chargee, the Director may give the chargee notice in the prescribed form and manner that on and after a day specified by the Director, no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization.

Day
to be
specified

(2) The day specified by the Director in a notice given under subsection (1) shall be a day at least 120 days after the date of the notice.

No
registration
where filing
required

(3) Where the Director has given a notice under subsection (1), no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization on or after the day specified by the Director.

Seal not
required

13.—(1) Despite any statute or rule of law, a transfer or other document transferring an interest in land, a charge or discharge need not be executed under seal by any person, and such a document that is not executed under seal has the same effect for all purposes as if executed under seal.

Guarantee

(2) Subsection (1) applies to a guarantee in a charge.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating parts of Ontario for the purposes of this Part;
- (b) prescribing forms for transfers, charges, discharges and other documents to be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, and prescribing the manner of their completion and execution by individuals and corporations;
- (c) authorizing the Director to issue instructions for the completion and execution of documents;

- (d) authorizing the Director to approve forms prescribed under clause (b), and prohibiting the registration of documents in forms prescribed under clause (b) that are not approved by the Director;
- (e) prescribing standard charge terms for the purpose of subsection 7 (5);
- (f) prescribing the form and manner in which sets of standard charge terms are to be filed with the Director under subsection 8 (1) and are to be made available for public inspection and copying;
- (g) prescribing fees payable under subsections 8 (4) and (5);
- (h) prescribing the form and manner in which notice is to be given under section 12;
- (i) prescribing the form and manner in which statements in documents are to be made;
- (j) prescribing the manner in which a party to a document registered under the *Land Titles Act* or the *Registry Act* may notify the land registrar of changes in the party's address for service.

R.S.O. 1980,
cc. 230, 445

PART II

AUTOMATED RECORDING AND PROPERTY MAPPING

15. Where land is designated for the purposes of Part I, the Lieutenant Governor in Council may by regulation designate all or any part of the land for the purpose of implementing a system for automated information recording and retrieval and property mapping.

Automated recording and property mapping in designated areas

16.—(1) The Director may by order fix a lower fee than that prescribed under the *Land Titles Act* or the *Registry Act* for any service that relates to land designated under this Part, and the lower fee shall be in effect for a specified period not exceeding three months from the designation of the land to which the service relates.

Temporary fee reduction during training period
R.S.O. 1980,
cc. 230, 445

(2) The *Regulations Act* does not apply to an order made under subsection (1).

R.S.O. 1980,
c. 446, does not apply

PART III

AMENDMENTS TO STATUTE LAW

17.—(1) Section 6 of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Statement of consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it.

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Statement as evidence for subsequent purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof.

(3) Section 23 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . .

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that are executed on or after the day on which the land is designated under clause 14 (a) of that Act.

18.—(1) Subsection 42 (3) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Proof that property not a matrimonial home
1984, c. . .

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance, or, where the property is located in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, a statement by the person,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or
- (d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home, but the affidavit or statement shall not be deemed to be sufficient proof that the property is not a matrimonial home where it is made by the attorney of the person making the disposition or encumbrance.

(2) Clause 45 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) where a false affidavit is given or a false statement is made under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit or made the false statement, or
 - (ii) any person who knew at the time it was sworn or made that the affidavit or statement was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

19.—(1) Section 1 of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (aa) “facsimile” means an accurate reproduction of a book, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;
- (ab) “land” means land, tenements, hereditaments and appurtenances and any interest therein;

(ga) "property" means land designated as a property under subsection 141a(2) or (4).

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Fee and receiving record

7. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a manner approved by the Director of Land Registration.

(3) Section 59 of the said Act is amended by adding thereto the following subsection:

Payment re surveys for property mapping

(3a) The Director of Land Registration may direct that all or part of the costs of a survey of land required to facilitate the inclusion of the land in a property map referred to in subsection 141a(3) be paid out of The Land Titles Survey Fund.

(4) Section 60 of the said Act is amended by adding thereto the following subsection:

Reliance on automated index 1984, c. . . .

(4a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the parcel register is entitled to compensation from The Land Titles Assurance Fund.

(5) Section 70 of the said Act is repealed and the following substituted therefor:

Description of registered owner

70. Subject to section 67, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by surname and by the first given name in full, followed by another given name, if any, in full.

(6) Subsection 75 (1) of the said Act is amended by striking out "books" in the fourth line and inserting in lieu thereof "records".

(7) Subsection 75 (2) of the said Act is amended by striking out "book" in the second line and inserting in lieu thereof "record".

(8) Subsection 81 (3) of the said Act is repealed and the following substituted therefor:

When registration complete

(3) Registration of an instrument is complete when the instrument and its entry in the proper register are certified in the prescribed manner by the land registrar, deputy or assist-

ant deputy land registrar, and the time of receipt of the instrument shall be deemed to be the time of its registration.

(9) Section 82 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a charge or transfer of registered land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c... .

(10) The said Act is amended by adding thereto the following section:

83a. The land registrar may,

Land registrar may refuse registration or refrain from recording in certain cases

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

1984, c... .

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, affect or relate to an interest in land; and

(b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(11) Section 93 of the said Act is amended by adding thereto the following subsection:

(5a) The authorization mentioned in subsection (5) is not required where the instrument is to be registered as a charge against land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c... .

(12) The said Act is further amended by adding thereto the following section:

97a. Sections 94, 95, 96 and 97 do not apply to a charge of registered land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

Exception
1984, c... .

(13) Section 109 of the said Act is amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply to a transfer of registered leasehold land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

1984, c. . .

(14) The said Act is further amended by adding thereto the following sections:

Application

141a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

1984, c. . .

Properties and property identifiers

(2) The Director of Land Registration shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties.

Property maps, etc.

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Parcel register

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the parcel register and enter every instrument that affects a property in the parcel register under the property identifier assigned to that property.

Other indexes and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments

(7) The Director of Land Registration may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director of Land Registration, in the parcel register under the property identifiers for the properties affected by the instruments.

Application

141b.—(1) This section applies only to documents affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. . .

(2) A document shall not be registered unless it contains,

Brief description and property identifier, etc.

- (a) a reference to the parcel number, if any, of the land it affects;
- (b) a reference to the lot, part lot or other unit on the plan or concession it affects;
- (c) where the document deals with part of a property or part of a parcel, a registrable description of the land it affects; and
- (d) the property identifier, if any, assigned under subsection 141a(2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is,

Exceptions

- (a) a plan; or
- (b) one of a prescribed class of instruments.

(4) Clauses (2) (b) and (c) do not apply to an instrument that is a discharge of charge purporting to discharge a charge completely.

Idem

(15) Section 147 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

Exception 1984, c. . .

(16) Section 162 of the said Act is amended by adding thereto the following subsection:

(1a) The Lieutenant Governor in Council may make regulations,

Idem

- (a) prescribing the manner in which instruments and entries in the register are to be certified at registration;
- (b) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (c) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (d) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (e) requiring land registrars to assign to persons who ask to search the records of the land registry office account numbers and other identification to enable them to do so;
- (f) prescribing the manner in which instruments, books, public records and facsimiles of them are to be produced for inspection;
- (g) prescribing the manner in which copies of instruments, books and public records are to be produced and certified;
- (h) prescribing methods and standards for computer entry, storage and retrieval of information;
- (i) prescribing the manner in which land is to be divided into blocks and properties;
- (j) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (k) prescribing the manner in which property identifiers are to be assigned;
- (l) prescribing the manner in which the abstract index is to be created and maintained;
- (m) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 141a(6);
- (n) prescribing the manner in which instruments are to be entered for the purpose of subsection 141a(7);
- (o) prescribing classes of instruments for the purpose of clause 141b(3) (b);
- (p) requiring that printed copies of the parcel register relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

(17) Subsection 162 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) or (1a) may be limited to one or more land titles divisions or one or more part or parts of a land titles division or divisions.

Application
of regulations

(18) Section 164 of the said Act is amended by adding thereto the following subsections:

(3) Subsection (2) does not apply in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. . . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed,

Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(19) The said Act is further amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

164a.—(1) Where a registered instrument or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the registered instrument or written record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original registered instrument or written record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(20) Subsection 165 (1) of the said Act is repealed and the following substituted therefor:

Penalty for
altering or
removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument, or by any means or in any way adds to or takes from the contents of any book, record, plan or instrument, and any person who, without lawful authority, removes or attempts to remove any book, record, plan or instrument from the place where it is kept is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan or instrument that the person alters, removes or attempts to remove.

(21) Section 166 of the said Act is amended by adding thereto the following subsection:

Exception

(5) Subsections (1), (2), (3) and (4) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. . .

20.—(1) The *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a. Sections 7 and 8 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. . .

(2) The said Act is further amended by adding thereto the following section:

38a. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with this Part, is as effectual as if *The Short Forms of Mortgages Amendment Act, 1964* had not been passed. Transitional
provision

1964, c. 110

21. Section 49 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsections:

(21a) Where a deed or transfer,

(a) contains a statement by the grantor, verifying that to the best of his or her knowledge and belief the deed or transfer does not contravene this section;

(b) contains a statement by the grantor's solicitor, verifying that,

(i) he or she has explained the effect of this section to the grantor,

(ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,

(iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and

(iv) he or she is an Ontario solicitor in good standing; and

(c) contains a statement by the grantee's solicitor, verifying that,

Exception
re prescribed
statements

- (i) he or she has investigated the title to the land and, where relevant, to abutting land,
 - (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
 - (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
 - (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and
- (d) is registered under the *Land Titles Act* or the *Registry Act*,

R.S.O. 1980,
cc. 230, 445

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered.

Search
period re
*Planning
Act, 1983*

(21b) For the purposes of the statement referred to in sub-clause (21a) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (21a) (a), (b) and (c).

Exempting
orders

(21c) The Minister may by order designate any part of Ontario as land to which subsection (21a) shall not apply after the day a certified copy or duplicate of the order is registered

in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*. R.S.O. 1980, c. 445

(21d) Every person who knowingly makes a false statement under subsection (21a) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of, Offence

- (a) the land in respect of which the statement is made; and
- (b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement.

22.—(1) Section 1 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

(ea) “facsimile” means an accurate reproduction of a book, instrument, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;

.

(oa) “property” means land designated as a property under subsection 20a(2) or (4).

(2) Section 16 of the said Act is amended by adding thereto the following subsections:

(3) Subsections (1) and (2) do not apply in the parts of Ontario that are designated under Part I of the *Land Registration Reform Act, 1984*. Exception 1984, c. . . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of instruments, copies, etc.

- (a) produce for inspection in the office during office hours,
 - (i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(3) The said Act is amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

16a.—(1) Where a registered instrument, a document deposited under Part II or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

(a) represents the instrument, document or record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the original instrument, document or record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

(a) represents the record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(4) Section 17 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to an instrument or memorial affecting or relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(5) Clause 19 (2) (a) of the said Act is amended by striking out “manually or mechanically” in the second line.

(6) Subsection 19 (4) of the said Act is amended by inserting after “book” in the fifth line “or a facsimile thereof”.

(7) Subsection 19 (6) of the said Act is repealed and the following substituted therefor:

(6) Where an abstract index is copied, every instrument, except an instrument to which subsection 62 (2), 51 (10) or 51 (11) applies, shall be copied, and the land registrar shall carefully preserve the original abstract index or a facsimile thereof and produce it upon demand. Instruments to be included in copy of abstract index

(8) Section 20 of the said Act is amended by adding thereto the following subsection:

(4) Subsections (1), (2) and (3) do not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(9) The said Act is further amended by adding thereto the following section:

20a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Application
1984, c. . . .

(2) The Director shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties. Properties and property identifiers

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed. Property maps, etc.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Abstract index

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the abstract index and enter every instrument that affects a property in the abstract index under the property identifier assigned to that property.

Other indexes and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments

(7) The Director may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director, in the abstract index under the property identifiers for the properties affected by the instruments.

(10) Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Instruments that may be registered

(1) Except as otherwise provided in and subject to,

(a) this Act and the regulations; and

(b) in respect of instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, Part I of that Act and the regulations made thereunder,

1984, c. . . .

any instrument within the meaning of clause 1 (f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(11) The said Act is further amended by adding thereto the following section:

Land registrar may refuse registration or refrain from recording in certain cases

21a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the

1984, c. . . .

land registrar's opinion, affect or relate to an interest in land; and

- (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(12) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. . .

(13) The said Act is further amended by adding thereto the following section:

22a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Application

1984, c. . .

(2) An instrument shall not be registered unless it contains,

Brief description and property identifier, etc.

- (a) a reference to the lot, part lot or other unit on the plan or concession it affects;
- (b) a registrable description of the land it affects, unless a registrable description of the same land is already recorded in the abstract index; and
- (c) the property identifier, if any, assigned under subsection 20a(2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is,

Exceptions

- (a) a plan;
- (b) identified by the letters "G.R." and to be registered under subsection 18 (6);
- (c) a by-law that does not directly affect title to land;
- (d) presented for registration together with a declaration in the prescribed form made by a party to the instrument or by the party's solicitor, attorney under registered power of attorney, or heirs, executors or administrators, or, where the party is a cor-

poration, by an officer thereof, stating that the instrument affects land within the registry division, and containing the information required by subsection (2);

- (e) a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, presented for registration together with a declaration in the prescribed form, made by one of the parties to the action or by the party's solicitor, stating that the instrument affects land within the registry division, and containing the information required by subsection (2); or
- (f) one of a prescribed class of instruments.

Further
recording

(4) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (3) (d) and (e).

(14) The said Act is further amended by adding thereto the following section:

Exception

1984, c. . . .

25a. Sections 25 and 26 do not apply to an instrument that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(15) Section 32 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . . .

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(16) The said Act is further amended by adding thereto the following section:

Application

1984, c. . . .

32a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Seal of
court with
officer's
signature
suffices for
registration

(2) The seal of a court of record affixed to an instrument is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge or the officer of the court signing it.

Execution by
corporation

(3) Where an instrument is executed by a corporation,

- (a) the corporation's seal affixed to the instrument, with the signature of an authorized person; or
- (b) the signature of an authorized person, with the person's statement that he or she has authority to bind the corporation,

are sufficient evidence, for the purpose of registration, of the due execution of the instrument by the corporation.

(17) Section 37 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(18) Section 41 of the said Act is amended by adding thereto the following subsection:

(12) Subsections (1), (2), (3), (4), (6), (7) and (10) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Where subss.
(1-4, 6, 7,
10)
do not apply
1984, c. . . .

(19) Section 42 of the said Act is repealed.

(20) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by surname and by the first given name in full, followed by another given name, if any, in full. Description
of grantee

(2a) Failure to comply with subsection (2) does not, in itself, invalidate a registered instrument. Saving

(21) Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate shall mention the date of registration and the registration number of, Contents

- (a) each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money; and
- (b) every other registered instrument relating exclusively to the mortgage.

(22) Section 58 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(2) Subsection (1) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of registration of discharge of mortgage predating

(3) Where a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day the land is designated under clause 14 (a) of that Act is discharged, a certificate of discharge under this Act and the regulations that complies with Part I of that Act and the regulations made thereunder is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be.

(23) Section 60 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(4a) Subsection (4) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of certificate

(4b) The certificate when registered, if it is of payment in full of a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day on which the land is designated under clause 14 (a) of that Act, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

(24) Subsection 71 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 17, section 3, is repealed and the following substituted therefor:

Method

(2) The land registrar shall, immediately after becoming aware of any omission or error in recording or deleting,

- (a) notify all persons who may be adversely affected by the necessary entries, alterations or corrections; and
- (b) make, date and certify the necessary entries, alterations or corrections in the prescribed manner.

(25) Section 76 of the said Act is amended by striking out "book" in the first line.

(26) Section 77 of the said Act is repealed and the following substituted therefor:

77.—(1) Where and as the examiner of surveys directs, the land registrar, taking account of registered instruments and deposited plans, shall prepare and register a plan of an area designated by the examiner of surveys. Land registrar's compiled plan

(2) A plan prepared and registered under subsection (1) shall be known as a Land Registrar's Compiled Plan. Idem

(3) Where and as the Director directs, the land registrar, taking account of registered instruments and deposited plans, shall, New abstract index

- (a) divide an area designated by the Director into parcels for abstract purposes;**
- (b) create a new heading in the abstract index for each parcel; and**
- (c) record previously registered instruments and deposited documents affecting or relating to the designated area under the new headings.**

(4) A parcel may include a reference to any easement in respect of which the land is the dominant or servient tenement. Easements

(27) Clause 82 (1) (d) of the said Act is amended by adding at the end thereof "but shall not assign a property identifier to the lands or alter any property identifier that has been assigned under subsection 20a(2) or (4)".

(28) Section 90 of the said Act is repealed and the following substituted therefor:

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a manner approved by the Director. Record of fees, etc.

(29) Clauses 91 (b), (e) and (g) of the said Act are repealed and the following substituted therefor:

- (b) see that entries and registrations are made and certified in a proper manner, that the indexes and rec-** records

ords are properly kept and that any original documents are properly stored;

instruction of land registrar

- (g) direct the land registrar how and in what manner to do any particular act or amend or correct whatever the Director may find amiss.

(30) Subsection 95 (1) of the said Act is repealed and the following substituted therefor:

Penalty for altering or removing records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document or by any means or in any way adds to or takes from the contents of any book, record, plan, instrument or document, and any person who, without lawful authority, removes or attempts to remove any book, record, plan, instrument or document from the place where it is kept, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan, instrument or document that the person alters, removes or attempts to remove.

(31) Subsection 96 (1) of the said Act is amended by adding thereto the following clauses:

- (ka) prescribing methods and standards for computer entry, storage and retrieval of information;
- (pa) prescribing the manner in which entries are to be certified;
- (pb) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (pc) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;
- (pd) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (pe) requiring land registrars to assign to persons who ask to search the records of the land registry office

account numbers and other identification to enable them to do so;

(pf) prescribing the manner in which instruments, documents, books, public records and facsimiles of them are to be produced for inspection;

(pg) prescribing the manner in which copies of instruments, documents, books and public records are to be produced and certified;

(ph) prescribing the manner in which land is to be divided into blocks and properties;

(pi) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;

(pj) prescribing the manner in which property identifiers are to be assigned;

(pk) prescribing the manner in which the abstract index is to be created and maintained;

(pl) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 20a(6);

(pm) prescribing the manner in which instruments are to be entered for the purpose of subsection 20a(7);

(pn) prescribing classes of instruments for the purpose of clause 22a(4) (f);

(po) requiring that printed copies of the abstract index relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

1984. c. . . .

(32) Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions or one or more part or parts of a registry division or divisions.

Application
of regulations

(33) Section 100 of the said Act is amended by adding thereto the following subsections:

Exception
1984, c. . . .

(2) Subsection (1) does not apply to a deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Requisition
to be filed

(3) Upon every deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form containing a description of the land to which the deposit relates that complies with subsection 22a(2).

(34) Subsections 101 (1) and (3) of the said Act are repealed and the following substituted therefor:

Numbering,
etc.

(1) Upon receiving a requisition under subsection 100 (1) and the documents mentioned in it, the land registrar shall cause the word "deposited" with the date and deposit number to be endorsed on the requisition.

Certificate
of deposit

(1a) Upon receiving a requisition under subsection 100 (3), the land registrar shall cause a certificate of deposit in the prescribed form to be endorsed on the requisition and every duplicate of it.

.

Entry in
abstract
index

(3) The land registrar shall enter in the abstract index against each lot, parcel or property mentioned in the requisition the words, "See Deposit No.....", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot.

(35) Section 102 of the said Act is amended by adding thereto the following subsection:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

(1a) The land registrar may,

(a) refuse to accept for deposit a document,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that relates to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, relate to an interest in land; and

1984, c. . . .

- (b) refrain from recording a part of a deposited document relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the document does not, in the land registrar's opinion, relate to an interest in land.

(36) Section 108 of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 17, section 5, is amended by adding thereto the following subsection:

(3a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the abstract index is entitled to compensation from The Land Titles Assurance Fund, and clauses (2) (a) and (b) do not apply to the person's right to compensation.

Reliance on automated index 1984, c. . . .

23. The *Short Forms of Conveyances Act*, being chapter 472 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

5. Sections 1, 2, 3 and 4 do not apply to a deed of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where ss. 1-4 do not apply 1984, c. . . .

24. Section 6 of the *Short Forms of Mortgages Act*, being chapter 474 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. Sections 1, 2, 3, 4 and 5 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where ss. 1-5 do not apply 1984, c. . . .

PART IV

GENERAL

25.—(1) This Act, except subsection 22 (26), comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

(2) Subsection 22 (26) shall be deemed to have come into force on the 1st day of December, 1983.

Idem

26. The short title of this Act is the *Land Registration Reform Act, 1984*.

Short title

Bill 66

(Chapter 32
Statutes of Ontario, 1984)

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	June 21st, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984



Bill 66

1984

**An Act respecting Conveyancing
Documents and Procedures and the
Recording of Title to Real Property**

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PART IV

(GENERAL)

25. Commencement
26. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DOCUMENTS

1. In this Part,

Interpretation

- (a) "charge" means a charge on land given for the purpose of securing the payment of a debt or the performance of an obligation, and includes a charge under the *Land Titles Act* and a mortgage, but does not include a rent charge;

R.S.O. 1980,
c. 230

- (b) “charge book” means the book maintained under subsection 8 (5);
- (c) “chargee” means a person in whose favour a charge is given;
- (d) “chargor” means a person who gives a charge;
- (e) “Director” means the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*;
- (f) “discharge” means a discharge of a charge and includes a cessation of charge under the *Land Titles Act* and a certificate of discharge of mortgage under the *Registry Act*;
- (g) “document” includes an instrument as defined in clause 1 (f) of the *Registry Act*;
- (h) “land” means land, tenements, hereditaments and appurtenances and any estate or interest therein;
- (i) “land registrar” means a land registrar appointed under the *Land Titles Act* or the *Registry Act*;
- (j) “prescribed” means prescribed by the regulations;
- (k) “regulations” means the regulations made under this Part;
- (l) “successor” means an heir, executor or administrator;
- (m) “transfer” means a conveyance of freehold or leasehold land and includes a deed and a transfer under the *Land Titles Act*, but does not include a lease or a charge;
- (n) “transferee” means a person in whose favour a transfer is given;
- (o) “transferor” means a person who gives a transfer.

Application
of Part

2. This Part applies to documents affecting or relating to land in the parts of Ontario that are designated by regulation.

Form of
documents
R.S.O. 1980,
cc. 230, 445

3.—(1) A document shall not be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, unless,

- (a) its form and manner of completion and execution comply with this Part and the regulations; or
- (b) it is attached to a document whose form and manner of completion and execution comply with this Part and the regulations.

(2) Despite subsection (1), a document that is executed before the day the land it affects or to which it relates is designated under clause 14 (a) may be registered under the *Registry Act* or the *Land Titles Act*, or deposited under Part II of the *Registry Act*, as if this Act had not been passed.

Transitional

R.S.O. 1980,
cc. 445, 230

(3) Failure to comply with subsection (1) does not, in itself, invalidate a document that has been registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, after the coming into force of this section.

Saving

(4) The Director may authorize the registration under the *Land Titles Act* or the *Registry Act*, or the deposit under Part II of the *Registry Act*, of a document whose form or manner of execution does not comply with this Part and the regulations.

Director may
authorize
registration
or deposit

(5) Where the form or manner of execution of a document does not comply with this Part or the regulations, the county or district court of the county or district in which the land that the document affects or to which it relates is situated may, on an application made on notice to the Director, order that the document be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*.

Court may
order
registration
or deposit

(6) An order or refusal to make an order under subsection (5) may be appealed to the Divisional Court by the applicant or by the Director.

Appeal

4.—(1) A document attached as a schedule to a document whose form is prescribed shall be deemed to be part of the document whose form is prescribed.

Incorporation
of schedules

(2) Where there is a conflict between the contents of a document whose form is prescribed and the contents of a document attached to it as a schedule, the document whose form is prescribed prevails.

Prescribed
form
governs

5.—(1) A transfer in the prescribed form shall be deemed to include the following covenants and release by the transferor, for the transferor and the transferor's successors, to and with the transferee and persons deriving title under the transferee:

Transfer:
implied
covenants

Usual
covenants
and release

1. In a transfer of freehold or leasehold land by the beneficial owner for valuable consideration, unless the transfer is expressed to be a quitclaim:
 - i. That the transferor has the right to convey the land to the transferee.
 - ii. That the transferee shall have quiet enjoyment of the land.
 - iii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iv. That the transferor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - v. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

Covenant re
leasehold

2. In a transfer of leasehold land by the beneficial owner for valuable consideration:

That, despite anything done, omitted or permitted by the transferor, the lease or grant creating the term or estate for which the land is transferred is, at the time the transfer is given, a valid lease or grant of the property conveyed, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the transfer is given.

Covenants
and release
by trustee,
etc.

3. In a transfer of freehold or leasehold land by a transferor who transfers as trustee or chargee, as personal representative of a deceased person, as committee of a mentally incompetent person, or under a court order:
 - i. That the transferor has not done, omitted or permitted anything whereby the land is or

may be encumbered or whereby the transferor is hindered from giving the transfer.

ii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.

iii. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

4. In a transfer of freehold or leasehold land by way of settlement by a transferor who transfers as settlor:

Settlor's covenant for further assurances

That the transferor and the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the expense of any person deriving title under the transfer, as may be reasonably required.

(2) Where a transfer to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made,

Multiple parties

(a) by each transferor to the extent of the interest or share transferred by the transferor; and

(b) with the transferees jointly, if the transfer is made to them jointly, or with each transferee, if the transfer is made to them as tenants in common.

(3) Where a transfer to which subsection (1) applies is given at the direction of the beneficial owner, the transfer shall be deemed to include the appropriate covenants set out in subsection (1) on the part of the beneficial owner as if the beneficial owner were the transferor.

Covenant by beneficial owner directing transfer

(4) A covenant deemed to be included in a transfer by this section may, in a schedule to the transfer, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Amendment of implied covenants

(5) The benefit of a covenant deemed to be included in a transfer by this section runs with the interest of the transferee in the land transferred, and may be enforced by any person in whom the interest or part of it vests.

Enforcement of covenant

Charge
not a
transfer

6.—(1) A charge does not operate as a transfer of the legal estate in the land to the chargee.

Defeasance

(2) A charge ceases to operate when the money and interest secured by the charge are paid, or the obligations whose performance is secured by the charge are performed, in the manner provided by the charge.

Rights and
remedies
preserved

(3) Despite subsection (1), a chargor and chargee are entitled to all the legal and equitable rights and remedies that would be available to them if the chargor had transferred the land to the chargee by way of mortgage, subject to a proviso for redemption.

Charge:
implied
covenants

7.—(1) A charge in the prescribed form shall be deemed to include the following covenants by the chargor, for the chargor and the chargor's successors, with the chargee and the chargee's successors and assigns:

Usual
covenants

1. In a charge of freehold or leasehold land by the beneficial owner:

- i. That the chargor or the chargor's successors will pay, in the manner provided by the charge, the money and interest it secures, and will pay the taxes assessed against the land.
- ii. That the chargor has the right to give the charge.
- iii. That the chargor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
- iv. That the chargor or the chargor's successors will insure the buildings on the land as specified in the charge.
- v. That the chargee on default of payment for the number of days specified in the charge or in the *Mortgages Act*, whichever is longer, may on giving the notice specified in the charge or required by that Act, whichever is longer, enter on and take possession of, receive the rents and profits of, lease or sell the land.
- vi. That where the chargee enters on and takes possession of the land on default as described

in subparagraph v, the chargee shall have quiet enjoyment of the land.

vii. That the chargor or the chargor's successors will, on default, execute such assurances of the land and do such other acts, at the chargee's expense, as may be reasonably required.

viii. That the chargee may distrain for arrears of interest.

ix. That on default of payment of the interest secured by the charge, the principal money shall, at the option of the chargee, become payable.

2. In a charge of freehold land by the beneficial owner, that the chargor has a good title in fee simple to the land, except as the records of the land registry office disclose. Covenant re freehold

3. In a charge of leasehold land by the beneficial owner: Covenant re leasehold

i. That, despite anything done, omitted or permitted by the chargor, the lease or grant creating the term or estate for which the land is held is, at the time the charge is given, a valid lease or grant of the land charged, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the charge is given.

ii. That the chargor or the chargor's successors will, while the moneys secured by the charge remain unpaid, pay, observe and perform all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant and will indemnify the chargee against all costs and damages incurred by reason of any non-payment of rent or non-observance or non-performance of the covenants, conditions and agreements.

(2) Where a charge to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by the chargors jointly and severally, unless the charge specifies otherwise; and
- (b) with the chargees jointly, unless the moneys secured are expressly secured to them in several shares or distinct sums.

Amendment
of implied
covenants

(3) A covenant deemed to be included in a charge by subsection (1) may, in a schedule to the charge, or in a set of standard charge terms filed under subsection 8 (1) and referred to in the charge by its filing number, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Enforcement
of covenant

(4) A covenant deemed to be included in a charge by subsection (1) may be enforced by a successor or assignee of the chargee.

Prescribed
terms

(5) A charge in the prescribed form shall be deemed to include the prescribed standard charge terms, unless a set of standard charge terms filed under subsection 8 (1) is referred to in the charge by its filing number.

Amendment
of prescribed
terms

(6) A prescribed standard charge term deemed to be included in a charge by subsection (5) may, in a schedule to the charge, be expressly excluded or be varied by setting out the term, appropriately varied.

Prescribed
terms to be
included in
charge book

(7) The Director shall include the prescribed standard charge terms in the charge book maintained under subsection 8 (5).

Filing of
standard
charge
terms

8.—(1) A person may file with the Director, in the prescribed manner and form, a set of standard charge terms and, with the consent of the Director, may file a set of standard charge terms in a form other than the prescribed form.

Amendment
of set of
standard
charge terms

(2) A set of standard charge terms filed under subsection (1) may be amended by filing a further set of standard charge terms under subsection (1).

Duties of
Director

(3) Where a set of standard charge terms is filed under subsection (1), the Director shall,

- (a) promptly assign a filing number to the set and advise the person who filed the set of its filing number; and
- (b) ensure that copies of the set, identified by its filing number, are provided to the land registry offices for

the parts of Ontario designated under this Part within thirty days of the day on which the set was filed.

(4) Every set of standard charge terms filed under subsection (1) shall be made available in the prescribed manner and at the prescribed fee for public inspection and copying in the land registry offices for the parts of Ontario designated under this Part on a day not later than thirty days after the day on which the set is filed with the Director.

Public inspection

(5) The Director shall enter all sets of standard charge terms filed under subsection (1) during each calendar year in a charge book and shall as soon as possible after the end of the calendar year,

Annual charge book

(a) provide copies of the charge book to the land registry offices for the parts of Ontario designated under this Part; and

(b) make available copies of the charge book for purchase by the public at the prescribed fee.

9.—(1) A charge shall be deemed to include a set of standard charge terms filed under subsection 8 (1) if the set is referred to in the charge by its filing number.

Effect of filing: incorporation by reference

(2) A term deemed to be included in a charge by subsection (1) may, in a schedule to the charge, be expressly excluded or may be varied by setting out the term, appropriately amended.

Amendment of standard charge terms in individual charge

(3) Where a charge refers to more than one set of standard charge terms by their filing numbers, the charge shall be deemed to include only the set that was filed last.

Only one set to be incorporated by reference

(4) Where there is a conflict between an express term in a charge and a term deemed to be included in the charge by subsection (1), the express term prevails.

Express term governs

10.—(1) A charge that refers to a set of standard charge terms filed under subsection 8 (1) by the set's filing number shall not be registered before a copy of the set is available in the land registry office where the charge is to be registered, as described in subsection 8 (4).

When charge may be registered

(2) The fact that a charge is registered in a manner that contravenes subsection (1) does not, in itself, invalidate the registered charge.

Saving

Disclosure:
offence

11. A person named as chargee in a charge containing standard charge terms that have been filed under subsection 8 (1) who takes the charge before providing the chargor or the chargor's solicitor with a copy of the standard charge terms is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Director
may require
filing

12.—(1) Where the Director is satisfied that a charge presented for registration contains terms that should be filed under subsection 8 (1) because of the frequency of their use in charges in favour of the chargee, the Director may give the chargee notice in the prescribed form and manner that on and after a day specified by the Director, no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization.

Day
to be
specified

(2) The day specified by the Director in a notice given under subsection (1) shall be a day at least 120 days after the date of the notice.

No
registration
where filing
required

(3) Where the Director has given a notice under subsection (1), no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization on or after the day specified by the Director.

Seal not
required

13.—(1) Despite any statute or rule of law, a transfer or other document transferring an interest in land, a charge or discharge need not be executed under seal by any person, and such a document that is not executed under seal has the same effect for all purposes as if executed under seal.

Guarantee

(2) Subsection (1) applies to a guarantee in a charge.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating parts of Ontario for the purposes of this Part;
- (b) prescribing forms for transfers, charges, discharges and other documents to be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, and prescribing the manner of their completion and execution by individuals and corporations;
- (c) authorizing the Director to issue instructions for the completion and execution of documents;

R.S.O. 1980,
cc. 230, 445

- (d) authorizing the Director to approve forms prescribed under clause (b), and prohibiting the registration of documents in forms prescribed under clause (b) that are not approved by the Director;
- (e) prescribing standard charge terms for the purpose of subsection 7 (5);
- (f) prescribing the form and manner in which sets of standard charge terms are to be filed with the Director under subsection 8 (1) and are to be made available for public inspection and copying;
- (g) prescribing fees payable under subsections 8 (4) and (5);
- (h) prescribing the form and manner in which notice is to be given under section 12;
- (i) prescribing the form and manner in which statements in documents are to be made;
- (j) prescribing the manner in which a party to a document registered under the *Land Titles Act* or the *Registry Act* may notify the land registrar of changes in the party's address for service.

R.S.O. 1980,
cc. 230, 445

PART II

AUTOMATED RECORDING AND PROPERTY MAPPING

15. Where land is designated for the purposes of Part I, the Lieutenant Governor in Council may by regulation designate all or any part of the land for the purpose of implementing a system for automated information recording and retrieval and property mapping.

Automated
recording
and property
mapping in
designated
areas

16.—(1) The Director may by order fix a lower fee than that prescribed under the *Land Titles Act* or the *Registry Act* for any service that relates to land designated under this Part, and the lower fee shall be in effect for a specified period not exceeding three months from the designation of the land to which the service relates.

Temporary
fee
reduction
during
training
period
R.S.O. 1980,
cc. 230, 445

(2) The *Regulations Act* does not apply to an order made under subsection (1).

R.S.O. 1980,
c. 446, does
not apply

PART III

AMENDMENTS TO STATUTE LAW

17.—(1) Section 6 of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Statement of
consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it.

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Statement
as evidence
for
subsequent
purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof.

(3) Section 23 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. 32

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that are executed on or after the day on which the land is designated under clause 14 (a) of that Act.

18.—(1) Subsection 42 (3) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Proof that
property
not a
matrimonial
home
1984, c. 32

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance, or, where the property is located in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, a statement by the person,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or
- (d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home, but the affidavit or statement shall not be deemed to be sufficient proof that the property is not a matrimonial home where it is made by the attorney of the person making the disposition or encumbrance.

(2) Clause 45 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) where a false affidavit is given or a false statement is made under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit or made the false statement, or
 - (ii) any person who knew at the time it was sworn or made that the affidavit or statement was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

19.—(1) Section 1 of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (aa) “facsimile” means an accurate reproduction of a book, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;
- (ab) “land” means land, tenements, hereditaments and appurtenances and any interest therein;

(ga) "property" means land designated as a property under subsection 141a (2) or (4).

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Fee and
receiving
record

7. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a manner approved by the Director of Land Registration.

(3) Section 59 of the said Act is amended by adding thereto the following subsection:

Payment
re surveys
for property
mapping

(3a) The Director of Land Registration may direct that all or part of the costs of a survey of land required to facilitate the inclusion of the land in a property map referred to in subsection 141a (3) be paid out of The Land Titles Survey Fund.

(4) Section 60 of the said Act is amended by adding thereto the following subsection:

Reliance
on automated
index
1984, c. 32

(4a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the parcel register is entitled to compensation from The Land Titles Assurance Fund.

(5) Section 70 of the said Act is repealed and the following substituted therefor:

Description
of registered
owner

70. Subject to section 67, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by surname and by the first given name in full, followed by another given name, if any, in full.

(6) Subsection 75 (1) of the said Act is amended by striking out "books" in the fourth line and inserting in lieu thereof "records".

(7) Subsection 75 (2) of the said Act is amended by striking out "book" in the second line and inserting in lieu thereof "record".

(8) Subsection 81 (3) of the said Act is repealed and the following substituted therefor:

When
registration
complete

(3) Registration of an instrument is complete when the instrument and its entry in the proper register are certified in the prescribed manner by the land registrar, deputy or assis-

tant deputy land registrar, and the time of receipt of the instrument shall be deemed to be the time of its registration.

(9) Section 82 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a charge or transfer of registered land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. 32

(10) The said Act is amended by adding thereto the following section:

83a. The land registrar may,

Land registrar may refuse registration or refrain from recording in certain cases

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, affect or relate to an interest in land; and

1984, c. 32

(b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(11) Section 93 of the said Act is amended by adding thereto the following subsection:

(5a) The authorization mentioned in subsection (5) is not required where the instrument is to be registered as a charge against land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. 32

(12) The said Act is further amended by adding thereto the following section:

97a. Sections 94, 95, 96 and 97 do not apply to a charge of registered land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

Exception

1984, c. 32

(13) Section 109 of the said Act is amended by adding thereto the following subsection:

Exception
1984, c. 32
(2) Subsection (1) does not apply to a transfer of registered leasehold land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

(14) The said Act is further amended by adding thereto the following sections:

Application
1984, c. 32
141a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

Properties and property identifiers
(2) The Director of Land Registration shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties.

Property maps, etc.
(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed.

Idem
(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Parcel register
(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the parcel register and enter every instrument that affects a property in the parcel register under the property identifier assigned to that property.

Other indexes and records
(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments
(7) The Director of Land Registration may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director of Land Registration, in the parcel register under the property identifiers for the properties affected by the instruments.

Application
1984, c. 32
141b.—(1) This section applies only to documents affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

- (2) A document shall not be registered unless it contains, Brief description and property identifier. etc.
- (a) a reference to the parcel number, if any, of the land it affects;
 - (b) a reference to the lot, part lot or other unit on the plan or concession it affects;
 - (c) where the document deals with part of a property or part of a parcel, a registrable description of the land it affects; and
 - (d) the property identifier, if any, assigned under subsection 141a (2) or (4) to the property it affects.

- (3) Subsection (2) does not apply to an instrument that is, Exceptions
- (a) a plan; or
 - (b) one of a prescribed class of instruments.

(4) Clauses (2) (b) and (c) do not apply to an instrument that is a discharge of charge purporting to discharge a charge completely. Idem

(15) Section 147 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception 1984, c. 32

(16) Section 162 of the said Act is amended by adding thereto the following subsection:

(1a) The Lieutenant Governor in Council may make regulations, Idem

- (a) prescribing the manner in which instruments and entries in the register are to be certified at registration;
- (b) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (c) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (d) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (e) requiring land registrars to assign to persons who ask to search the records of the land registry office account numbers and other identification to enable them to do so;
- (f) prescribing the manner in which instruments, books, public records and facsimiles of them are to be produced for inspection;
- (g) prescribing the manner in which copies of instruments, books and public records are to be produced and certified;
- (h) prescribing methods and standards for computer entry, storage and retrieval of information;
- (i) prescribing the manner in which land is to be divided into blocks and properties;
- (j) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (k) prescribing the manner in which property identifiers are to be assigned;
- (l) prescribing the manner in which the abstract index is to be created and maintained;
- (m) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 141a (6);
- (n) prescribing the manner in which instruments are to be entered for the purpose of subsection 141a (7);
- (o) prescribing classes of instruments for the purpose of clause 141b (3) (b);
- (p) requiring that printed copies of the parcel register relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

(17) Subsection 162 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) or (1a) may be limited to one or more land titles divisions or one or more part or parts of a land titles division or divisions.

Application
of regulations

(18) Section 164 of the said Act is amended by adding thereto the following subsections:

(3) Subsection (2) does not apply in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. 32

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed,

Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(19) The said Act is further amended by adding thereto the following section:

Computer printout, etc., admissible in evidence

164a.—(1) Where a registered instrument or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the registered instrument or written record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original registered instrument or written record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(20) Subsection 165 (1) of the said Act is repealed and the following substituted therefor:

Penalty for altering or removing records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument, or by any means or in any way adds to or takes from the contents of any book, record, plan or instrument, and any person who, without lawful authority, removes or attempts to remove any book, record, plan or instrument from the place where it is kept is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan or instrument that the person alters, removes or attempts to remove.

(21) Section 166 of the said Act is amended by adding thereto the following subsection:

Exception

(5) Subsections (1), (2), (3) and (4) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

20.—(1) The *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a. Sections 7 and 8 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984. c. 32

(2) The said Act is further amended by adding thereto the following section:

38a. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with this Part, is as effectual as if *The Short Forms of Mortgages Amendment Act, 1964* had not been passed. Transitional
provision
1964. c. 110

21. Section 49 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsections:

(21a) Where a deed or transfer,

(a) contains a statement by the grantor, verifying that to the best of his or her knowledge and belief the deed or transfer does not contravene this section;

(b) contains a statement by the grantor's solicitor, verifying that,

(i) he or she has explained the effect of this section to the grantor,

(ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,

(iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and

(iv) he or she is an Ontario solicitor in good standing; and

(c) contains a statement by the grantee's solicitor, verifying that,

Exception
re prescribed
statements

- (i) he or she has investigated the title to the land and, where relevant, to abutting land,
- (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
- (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
- (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and

R.S.O. 1980,
cc. 230, 445

- (d) is registered under the *Land Titles Act* or the *Registry Act*,

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered.

Search
period re
*Planning
Act, 1983*

(21b) For the purposes of the statement referred to in sub-clause (21a) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (21a) (a), (b) and (c).

Exempting
orders

(21c) The Minister may by order designate any part of Ontario as land to which subsection (21a) shall not apply after the day a certified copy or duplicate of the order is registered

in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*. R.S.O. 1980, c. 445

(21d) Every person who knowingly makes a false statement under subsection (21a) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of, Offence

- (a) the land in respect of which the statement is made; and
- (b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement.

22.—(1) Section 1 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

(ea) “facsimile” means an accurate reproduction of a book, instrument, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;

(oa) “property” means land designated as a property under subsection 20a (2) or (4).

(2) Section 16 of the said Act is amended by adding thereto the following subsections:

(3) Subsections (1) and (2) do not apply in the parts of Ontario that are designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of
instruments,
copies, etc.

- (a) produce for inspection in the office during office hours,
 - (i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(3) The said Act is amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

16a.—(1) Where a registered instrument, a document deposited under Part II or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

(a) represents the instrument, document or record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the original instrument, document or record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

(a) represents the record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(4) Section 17 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to an instrument or memorial affecting or relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(5) Clause 19 (2) (a) of the said Act is amended by striking out “manually or mechanically” in the second line.

(6) Subsection 19 (4) of the said Act is amended by inserting after “book” in the fifth line “or a facsimile thereof”.

(7) Subsection 19 (6) of the said Act is repealed and the following substituted therefor:

(6) Where an abstract index is copied, every instrument, except an instrument to which subsection 62 (2), 51 (10) or 51 (11) applies, shall be copied, and the land registrar shall carefully preserve the original abstract index or a facsimile thereof and produce it upon demand. Instruments
to be
included
in copy of
abstract
index

(8) Section 20 of the said Act is amended by adding thereto the following subsection:

(4) Subsections (1), (2) and (3) do not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(9) The said Act is further amended by adding thereto the following section:

20a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Application
1984, c. 32

(2) The Director shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties. Properties
and property
identifiers

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed. Property
maps, etc.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Abstract index

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the abstract index and enter every instrument that affects a property in the abstract index under the property identifier assigned to that property.

Other indexes and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments

(7) The Director may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director, in the abstract index under the property identifiers for the properties affected by the instruments.

(10) Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Instruments that may be registered

(1) Except as otherwise provided in and subject to,

(a) this Act and the regulations; and

(b) in respect of instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, Part I of that Act and the regulations made thereunder,

1984, c. 32

any instrument within the meaning of clause 1 (f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(11) The said Act is further amended by adding thereto the following section:

Land registrar may refuse registration or refrain from recording in certain cases

21a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the

1984, c. 32

land registrar's opinion, affect or relate to an interest in land; and

- (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(12) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. 32

(13) The said Act is further amended by adding thereto the following section:

22a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Application
1984, c. 32

(2) An instrument shall not be registered unless it contains,

Brief description and property identifier, etc.

- (a) a reference to the lot, part lot or other unit on the plan or concession it affects;
- (b) a registrable description of the land it affects, unless a registrable description of the same land is already recorded in the abstract index; and
- (c) the property identifier, if any, assigned under subsection 20a (2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is,

Exceptions

- (a) a plan;
- (b) identified by the letters "G.R." and to be registered under subsection 18 (6);
- (c) a by-law that does not directly affect title to land;
- (d) presented for registration together with a declaration in the prescribed form made by a party to the instrument or by the party's solicitor, attorney under registered power of attorney, or heirs, executors or administrators, or, where the party is a cor-

poration, by an officer thereof, stating that the instrument affects land within the registry division, and containing the information required by subsection (2);

- (e) a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, presented for registration together with a declaration in the prescribed form, made by one of the parties to the action or by the party's solicitor, stating that the instrument affects land within the registry division, and containing the information required by subsection (2); or
- (f) one of a prescribed class of instruments.

Further
recording

(4) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (3) (d) and (e).

(14) The said Act is further amended by adding thereto the following section:

Exception

1984, c. 32

25a. Sections 25 and 26 do not apply to an instrument that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(15) Section 32 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. 32

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(16) The said Act is further amended by adding thereto the following section:

Application

1984, c. 32

32a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Seal of
court with
officer's
signature
suffices for
registration

(2) The seal of a court of record affixed to an instrument is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge or the officer of the court signing it.

Execution by
corporation

(3) Where an instrument is executed by a corporation,

- (a) the corporation's seal affixed to the instrument, with the signature of an authorized person; or
- (b) the signature of an authorized person, with the person's statement that he or she has authority to bind the corporation,

are sufficient evidence, for the purpose of registration, of the due execution of the instrument by the corporation.

(17) Section 37 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. 32

(18) Section 41 of the said Act is amended by adding thereto the following subsection:

(12) Subsections (1), (2), (3), (4), (6), (7) and (10) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Where subss. (1-4, 6, 7, 10) do not apply
1984, c. 32

(19) Section 42 of the said Act is repealed.

(20) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by surname and by the first given name in full, followed by another given name, if any, in full.

Description of grantee

(2a) Failure to comply with subsection (2) does not, in itself, invalidate a registered instrument.

Saving

(21) Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate shall mention the date of registration and the registration number of,

Contents

- (a) each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money; and
- (b) every other registered instrument relating exclusively to the mortgage.

(22) Section 58 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. 32

(2) Subsection (1) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of registration of discharge of mortgage predating

(3) Where a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day the land is designated under clause 14 (a) of that Act is discharged, a certificate of discharge under this Act and the regulations that complies with Part I of that Act and the regulations made thereunder is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be.

(23) Section 60 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. 32

(4a) Subsection (4) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of certificate

(4b) The certificate when registered, if it is of payment in full of a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day on which the land is designated under clause 14 (a) of that Act, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

(24) Subsection 71 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 17, section 3, is repealed and the following substituted therefor:

Method

(2) The land registrar shall, immediately after becoming aware of any omission or error in recording or deleting,

- (a) notify all persons who may be adversely affected by the necessary entries, alterations or corrections; and
- (b) make, date and certify the necessary entries, alterations or corrections in the prescribed manner.

(25) Section 76 of the said Act is amended by striking out "book" in the first line.

(26) Section 77 of the said Act is repealed and the following substituted therefor:

77.—(1) Where and as the examiner of surveys directs, the land registrar, taking account of registered instruments and deposited plans, shall prepare and register a plan of an area designated by the examiner of surveys. Land registrar's compiled plan

(2) A plan prepared and registered under subsection (1) shall be known as a Land Registrar's Compiled Plan. Idem

(3) Where and as the Director directs, the land registrar, taking account of registered instruments and deposited plans, shall, New abstract index

- (a) divide an area designated by the Director into parcels for abstract purposes;
- (b) create a new heading in the abstract index for each parcel; and
- (c) record previously registered instruments and deposited documents affecting or relating to the designated area under the new headings.

(4) A parcel may include a reference to any easement in respect of which the land is the dominant or servient tenement. Easements

(27) Clause 82 (1) (d) of the said Act is amended by adding at the end thereof "but shall not assign a property identifier to the lands or alter any property identifier that has been assigned under subsection 20a (2) or (4)".

(28) Section 90 of the said Act is repealed and the following substituted therefor:

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a manner approved by the Director. Record of fees, etc.

(29) Clauses 91 (b), (e) and (g) of the said Act are repealed and the following substituted therefor:

- (b) see that entries and registrations are made and certified in a proper manner, that the indexes and records

ords are properly kept and that any original documents are properly stored;

instruction of land registrar

- (g) direct the land registrar how and in what manner to do any particular act or amend or correct whatever the Director may find amiss.

(30) Subsection 95 (1) of the said Act is repealed and the following substituted therefor:

Penalty for altering or removing records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document or by any means or in any way adds to or takes from the contents of any book, record, plan, instrument or document, and any person who, without lawful authority, removes or attempts to remove any book, record, plan, instrument or document from the place where it is kept, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan, instrument or document that the person alters, removes or attempts to remove.

(31) Subsection 96 (1) of the said Act is amended by adding thereto the following clauses:

- (ka) prescribing methods and standards for computer entry, storage and retrieval of information;
- (pa) prescribing the manner in which entries are to be certified;
- (pb) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (pc) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;
- (pd) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (pe) requiring land registrars to assign to persons who ask to search the records of the land registry office

account numbers and other identification to enable them to do so;

- (pf) prescribing the manner in which instruments, documents, books, public records and facsimiles of them are to be produced for inspection;
- (pg) prescribing the manner in which copies of instruments, documents, books and public records are to be produced and certified;
- (ph) prescribing the manner in which land is to be divided into blocks and properties;
- (pi) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (pj) prescribing the manner in which property identifiers are to be assigned;
- (pk) prescribing the manner in which the abstract index is to be created and maintained;
- (pl) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 20a (6);
- (pm) prescribing the manner in which instruments are to be entered for the purpose of subsection 20a (7);
- (pn) prescribing classes of instruments for the purpose of clause 22a (4) (f);
- (po) requiring that printed copies of the abstract index relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

1984, c. 32

(32) Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions or one or more part or parts of a registry division or divisions.

Application
of regulations

(33) Section 100 of the said Act is amended by adding thereto the following subsections:

Exception
1984, c. 32

(2) Subsection (1) does not apply to a deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Requisition
to be filed

(3) Upon every deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form containing a description of the land to which the deposit relates that complies with subsection 22a (2).

(34) Subsections 101 (1) and (3) of the said Act are repealed and the following substituted therefor:

Numbering,
etc.

(1) Upon receiving a requisition under subsection 100 (1) and the documents mentioned in it, the land registrar shall cause the word "deposited" with the date and deposit number to be endorsed on the requisition.

Certificate
of deposit

(1a) Upon receiving a requisition under subsection 100 (3), the land registrar shall cause a certificate of deposit in the prescribed form to be endorsed on the requisition and every duplicate of it.

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Entry in
abstract
index

(3) The land registrar shall enter in the abstract index against each lot, parcel or property mentioned in the requisition the words, "See Deposit No.....", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot.

(35) Section 102 of the said Act is amended by adding thereto the following subsection:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

- (1a) The land registrar may,
 - (a) refuse to accept for deposit a document,
 - (i) that is wholly or partly illegible or unsuitable for microfilming, or
 - (ii) that relates to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, relate to an interest in land; and

1984, c. 32

- (b) refrain from recording a part of a deposited document relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the document does not, in the land registrar's opinion, relate to an interest in land.

(36) Section 108 of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 17, section 5, is amended by adding thereto the following subsection:

(3a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the abstract index is entitled to compensation from The Land Titles Assurance Fund, and clauses (2) (a) and (b) do not apply to the person's right to compensation.

Reliance
on automated
index
1984, c. 32

23. The *Short Forms of Conveyances Act*, being chapter 472 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

5. Sections 1, 2, 3 and 4 do not apply to a deed of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where
ss. 1-4 do
not apply
1984, c. 32

24. Section 6 of the *Short Forms of Mortgages Act*, being chapter 474 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. Sections 1, 2, 3, 4 and 5 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where
ss. 1-5 do
not apply
1984, c. 32

PART IV

GENERAL

25.—(1) This Act, except subsection 22 (26), comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Subsection 22 (26) shall be deemed to have come into force on the 1st day of December, 1983.

Idem

26. The short title of this Act is the *Land Registration Reform Act, 1984*.

Short title

Bill 67

An Act to amend the Milk Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. At present, paragraphs 3, 5, 6 and 8 of section 1 of the Act define “cheese factory”, “concentrated milk plant”, “creamery” and “dairy”, respectively. Those definitions are no longer required.

Subsection 2. The expressions “cream receiving station”, “milk receiving station” and “plant” are redefined, complementary to subsection 1.

The definition of “processing” is enlarged to include the treating of milk products and packaging and packing processes.

SECTION 2. Subsection 3 (4) of the Act now reads as follows:

(4) A majority of the members of the Commission constitutes a quorum whether or not a vacancy exists in the membership.

The subsection is re-enacted to provide that a quorum of the Milk Commission of Ontario shall be three members, one of whom must be the chairman or vice-chairman and to clarify what constitutes a decision of the Commission.

SECTION 3. Subsection 13 (4) of the Act now reads as follows:

(4) Such officers, field-men and other employees as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the Public Service Act.

The subsection is enlarged to provide that the Minister may make appointments that are not appointments under the *Public Service Act*.

SECTION 4.—Subsection 1. Subsection 20 (1) of the Act authorizes the Milk Commission to make regulations, subject to the approval of the Lieutenant Governor in Council.

The authority to make such regulations in respect of milk products is enlarged.

Subsection 2. The Commission’s authority to adopt federal regulations by reference is enlarged.

Bill 67**1984****An Act to amend the Milk Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 3, 5, 6 and 8 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Paragraphs 7, 20, 23 and 24 of the said section 1 are repealed and the following substituted therefor:

7. “cream transfer station” means premises at which cream is received for the purpose of being transported to a plant for processing;

.

20. “milk transfer station” means premises at which milk is received for the purpose of being transported to a plant for processing;

.

23. “plant” means a cream transfer station, a milk transfer station or premises in which milk or cream or milk products are processed;

24. “processing” means heating, pasteurizing, evaporating, drying, churning, freezing, packaging, packing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream or milk products in the manufacture or preparation of milk products or fluid milk products.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Quorum

(4) The chairman or vice-chairman and two other members of the Commission constitute a quorum, and the decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission.

3. Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Appointments

(4) Such officers, field-men and other persons as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the *Public Service Act* or may otherwise be appointed for such purposes by the Minister.

R.S.O. 1980,
c. 418

4.—(1) Subsection 20 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2, is further amended by adding thereto the following paragraphs:

65a. regulating the inspecting, grading, packaging, packing, marking and labelling of milk products, providing for the establishment of grades, grade names and marks and specifications of containers and packages of milk products and the issue of inspection and grading certificates, and prescribing the fees payable upon inspection and grading of milk products;

65b. regulating and prohibiting the placing of any substance or foreign object in a milk product, the exposure of a milk product to any substance and the producing, processing and marketing of such milk product or a milk product that does not comply with the standards, grades, grade names or marks or specifications of containers and packages established by the regulations.

(2) Subsection 20 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 18, section 3, is repealed and the following substituted therefor:

Adoption by
reference

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade name or mark, packing, marking or labelling requirement or

R.S.C. 1970,
c.A-8

specification of containers or packages so adopted, including any such changes.

5. This Act comes into force on the day it receives Royal Assent. Commencement

6. The short title of this Act is the *Milk Amendment Act, 1984*. Short title

Bill 67

An Act to amend the Milk Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading May 25th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. At present, paragraphs 3, 5, 6 and 8 of section 1 of the Act define “cheese factory”, “concentrated milk plant”, “creamery” and “dairy”, respectively. Those definitions are no longer required.

Subsection 2. The expressions “cream receiving station”, “milk receiving station” and “plant” are redefined, complementary to subsection 1.

The definition of “processing” is enlarged to include the treating of milk products and packaging and packing processes.

SECTION 2. Subsection 3 (4) of the Act now reads as follows:

(4) A majority of the members of the Commission constitutes a quorum whether or not a vacancy exists in the membership.

The subsection is re-enacted to provide that a quorum of the Milk Commission of Ontario shall be three members, one of whom must be the chairman or vice-chairman and to clarify what constitutes a decision of the Commission.

SECTION 3. Subsection 13 (4) of the Act now reads as follows:

(4) Such officers, field-men and other employees as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the Public Service Act.

The subsection is enlarged to provide that the Minister may make appointments that are not appointments under the *Public Service Act*.

SECTION 4.—Subsection 1. Subsection 20 (1) of the Act authorizes the Milk Commission to make regulations, subject to the approval of the Lieutenant Governor in Council.

The authority to make such regulations in respect of milk products is enlarged.

Subsection 2. The Commission’s authority to adopt federal regulations by reference is enlarged.

Bill 67

1984

An Act to amend the Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 3, 5, 6 and 8 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Paragraphs 7, 20, 23 and 24 of the said section 1 are repealed and the following substituted therefor:

7. “cream transfer station” means premises at which cream is received for the purpose of being transported to a plant for processing;

.

20. “milk transfer station” means premises at which milk is received for the purpose of being transported to a plant for processing;

.

23. “plant” means a cream transfer station, a milk transfer station or premises in which milk or cream or milk products are processed;

24. “processing” means heating, pasteurizing, evaporating, drying, churning, freezing, packaging, packing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream or milk products in the manufacture or preparation of milk products or fluid milk products.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Quorum

(4) The chairman or vice-chairman and two other members of the Commission constitute a quorum, and the decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission.

3. Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Appointments

(4) Such officers, field-men and other persons as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the *Public Service Act*, but the Minister may appoint, under this Act, as a field-man or grader any person who has been appointed or designated as a grader or inspector under the *Canada Agricultural Products Standards Act*.

R.S.O. 1980,
c. 418

R.S.C. 1970,
c. A-8

4.—(1) Subsection 20 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2, is further amended by adding thereto the following paragraphs:

65a. regulating the inspecting, grading, packaging, packing, marking and labelling of milk products, providing for the establishment of grades, grade names and marks and specifications of containers and packages of milk products and the issue of inspection and grading certificates, and prescribing the fees payable upon inspection and grading of milk products;

65b. regulating and prohibiting the placing of any substance or foreign object in a milk product, the exposure of a milk product to any substance and the producing, processing and marketing of such milk product or a milk product that does not comply with the standards, grades, grade names or marks or specifications of containers and packages established by the regulations.

(2) Subsection 20 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 18, section 3, is repealed and the following substituted therefor:

Adoption by
reference

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade

R.S.C. 1970,
c. A-8

name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages so adopted, including any such changes.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Milk Amendment Act, 1984*. Short title

Bill 67

*(Chapter 25
Statutes of Ontario, 1984)*

An Act to amend the Milk Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	May 25th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 67**1984****An Act to amend the Milk Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 3, 5, 6 and 8 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Paragraphs 7, 20, 23 and 24 of the said section 1 are repealed and the following substituted therefor:

7. “cream transfer station” means premises at which cream is received for the purpose of being transported to a plant for processing;
-
20. “milk transfer station” means premises at which milk is received for the purpose of being transported to a plant for processing;
-
23. “plant” means a cream transfer station, a milk transfer station or premises in which milk or cream or milk products are processed;
24. “processing” means heating, pasteurizing, evaporating, drying, churning, freezing, packaging, packing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream or milk products in the manufacture or preparation of milk products or fluid milk products.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Quorum

(4) The chairman or vice-chairman and two other members of the Commission constitute a quorum, and the decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission.

3. Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Appointments

(4) Such officers, field-men and other persons as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the *Public Service Act*, but the Minister may appoint, under this Act, as a field-man or grader any person who has been appointed or designated as a grader or inspector under the *Canada Agricultural Products Standards Act*.

R.S.O. 1980,
c. 418

R.S.C. 1970,
c. A-8

4.—(1) Subsection 20 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2, is further amended by adding thereto the following paragraphs:

65a. regulating the inspecting, grading, packaging, packing, marking and labelling of milk products, providing for the establishment of grades, grade names and marks and specifications of containers and packages of milk products and the issue of inspection and grading certificates, and prescribing the fees payable upon inspection and grading of milk products;

65b. regulating and prohibiting the placing of any substance or foreign object in a milk product, the exposure of a milk product to any substance and the producing, processing and marketing of such milk product or a milk product that does not comply with the standards, grades, grade names or marks or specifications of containers and packages established by the regulations.

(2) Subsection 20 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 18, section 3, is repealed and the following substituted therefor:

Adoption by reference

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade

R.S.C. 1970,
c. A-8

name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages so adopted, including any such changes.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Milk Amendment Act, 1984*. Short title

Bill 68

*(Chapter 26
Statutes of Ontario, 1984)*

An Act respecting the Marketing of Grain Corn

The Hon. D. R. Timbrell
Minister of Agriculture and Food

<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	June 1st, 1984
<i>3rd Reading</i>	June 1st, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 68

1984

An Act respecting the Marketing of Grain Corn

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "Association" means the Ontario Corn Producers' Association incorporated under the *Agricultural Associations Act*; R.S.O. 1980,
c. 8
- (b) "buyer" means a person engaged in buying grain corn from producers of grain corn in Ontario;
- (c) "licence" means a licence provided for under this Act;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "regulations" means the regulations made under this Act.

2.—(1) The purpose and intent of this Act is to provide for the financing of the Association so it may expend moneys to advance the production of corn in all its branches and improve the marketing of corn by, Purpose and
intent of Act

- (a) encouraging and promoting improvement in all phases of corn production and marketing;
- (b) co-operating with government and agencies of government to improve the production and marketing of corn;
- (c) holding meetings for the consideration of questions relating to the corn industry;
- (d) co-operating with organizations of producers of agricultural products;

- (e) collecting, arranging, assembling and disseminating information; and
- (f) making representations to all levels of government and to agencies of government.

Use of
licence
fees by
Association

(2) The Association may use licence fees paid to it under this Act for defraying the expenses of the Association in doing any thing referred to in subsection (1) and in carrying out its objects.

Licences

3.—(1) Except under the authority of a licence, no person shall sell grain corn to a buyer.

Idem

(2) Every person who sells grain corn to a buyer shall be deemed to be the holder of a licence, except when in default of payment of licence fees prescribed under this Act.

Exception

(3) Subsection (1) does not apply in respect of the sale of seed corn, sweet corn or popping corn.

Refund of
licence fees

4.—(1) Every person who is the holder of a licence under section 3 may apply for a refund of any licence fees paid by him to the Association under this Act.

Idem

(2) Every application for a refund shall be made in the manner and within the time prescribed by the regulations.

Idem

(3) Where the Association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than six months after receipt of the application therefor.

Producer-
buyer

(4) Any person who is a producer and a buyer is entitled in his respective capacities as a producer and as a buyer to all the rights and privileges and is subject to all the duties and obligations of a producer and of a buyer.

Idem

(5) Any person who is a producer and a buyer shall be deemed to have received in his capacity as a buyer from himself in his capacity as a producer the grain corn produced by him that he buys, and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that this Act and the regulations apply.

Recommen-
dation
by directors
of
Association

5. Where the board of directors of the Association is of the opinion that a majority of the members of the Association are in favour thereof, the board of directors may recommend through the Minister to the Lieutenant Governor in Council

the making, amending or revoking of regulations respecting any of the matters set forth in section 6.

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the amount of licence fees up to but not exceeding forty cents per tonne of any grain corn sold by a producer;
- (b) requiring persons to pay to the Association licence fees owing by them;
- (c) requiring any buyer who receives grain corn from a seller thereof to deduct, from the moneys payable to the seller, any licence fees payable by the seller to the Association, and to forward such licence fees to the Association;
- (d) providing for the recovery by the Association of licence fees by suit in any court of competent jurisdiction, and requiring persons engaged in buying or selling grain corn to account for licence fees payable to the Association;
- (e) prescribing the manner and the time within which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (f) providing for the exemption from this Act or any or all of the regulations of any grain corn or class thereof or any person or class of persons;
- (g) prescribing forms and providing for their use.

(2) A regulation may be general or particular in its application. Scope of regulations

7. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$2,000. Offence

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

9. The short title of this Act is the *Grain Corn Marketing Act, 1984*. Short title

Bill 68

An Act respecting the Marketing of Grain Corn

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the payment of licence fees by the producers of grain corn and the expenditure of such fees to advance the production of corn and improve the marketing of corn.

Bill 68

1984

An Act respecting the Marketing of Grain Corn

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "Association" means the Ontario Corn Producers' Association incorporated under the *Agricultural Associations Act*; R.S.O. 1980,
c. 8
- (b) "buyer" means a person engaged in buying grain corn from producers of grain corn in Ontario;
- (c) "licence" means a licence provided for under this Act;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "regulations" means the regulations made under this Act.

2.—(1) The purpose and intent of this Act is to provide for the financing of the Association so it may expend moneys to advance the production of corn in all its branches and improve the marketing of corn by,

Purpose and
intent of Act

- (a) encouraging and promoting improvement in all phases of corn production and marketing;
- (b) co-operating with government and agencies of government to improve the production and marketing of corn;
- (c) holding meetings for the consideration of questions relating to the corn industry;
- (d) co-operating with organizations of producers of agricultural products;

- (e) collecting, arranging, assembling and disseminating information; and
- (f) making representations to all levels of government and to agencies of government.

Use of
licence
fees by
Association

(2) The Association may use licence fees paid to it under this Act for defraying the expenses of the Association in doing any thing referred to in subsection (1) and in carrying out its objects.

Licences

3.—(1) Except under the authority of a licence, no person shall sell grain corn to a buyer.

Idem

(2) Every person who sells grain corn to a buyer shall be deemed to be the holder of a licence, except when in default of payment of licence fees prescribed under this Act.

Exception

(3) Subsection (1) does not apply in respect of the sale of seed corn, sweet corn or popping corn.

Refund of
licence fees

4.—(1) Every person who is the holder of a licence under section 3 may apply for a refund of any licence fees paid by him to the Association under this Act.

Idem

(2) Every application for a refund shall be made in the manner and within the time prescribed by the regulations.

Idem

(3) Where the Association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than six months after receipt of the application therefor.

Producer-
buyer

(4) Any person who is a producer and a buyer is entitled in his respective capacities as a producer and as a buyer to all the rights and privileges and is subject to all the duties and obligations of a producer and of a buyer.

Idem

(5) Any person who is a producer and a buyer shall be deemed to have received in his capacity as a buyer from himself in his capacity as a producer the grain corn produced by him that he buys, and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that this Act and the regulations apply.

Recommen-
dation
by directors
of
Association

5. Where the board of directors of the Association is of the opinion that a majority of the members of the Association are in favour thereof, the board of directors may recommend through the Minister to the Lieutenant Governor in Council

the making, amending or revoking of regulations respecting any of the matters set forth in section 6.

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the amount of licence fees up to but not exceeding forty cents per tonne of any grain corn sold by a producer;
- (b) requiring persons to pay to the Association licence fees owing by them;
- (c) requiring any buyer who receives grain corn from a seller thereof to deduct, from the moneys payable to the seller, any licence fees payable by the seller to the Association, and to forward such licence fees to the Association;
- (d) providing for the recovery by the Association of licence fees by suit in any court of competent jurisdiction, and requiring persons engaged in buying or selling grain corn to account for licence fees payable to the Association;
- (e) prescribing the manner and the time within which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (f) providing for the exemption from this Act or any or all of the regulations of any grain corn or class thereof or any person or class of persons;
- (g) prescribing forms and providing for their use.

(2) A regulation may be general or particular in its application. Scope of regulations

7. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$2,000. Offence

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

9. The short title of this Act is the *Grain Corn Marketing Act, 1984*. Short title

Bill 69

An Act to amend the Live Stock and Live Stock Products Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Clause 3 (1) (b) of the Act now reads as follows:

(1) The Commissioner shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

(b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the conditions under which the licence is issued; or

The re-enactment extends the application of the clause to the terms under which a licence is issued.

Subsection 2. The Commissioner is empowered to impose terms and conditions upon a licence.

SECTION 2. The new section provides that a licensee may apply to the Commissioner to have a term or condition of a licence varied or removed.

SECTION 3.—Subsection 1. Clause 4 (1) (b) of the Act is amended to make it apply to a contravention of the terms of a licence in the same manner as it now applies to a contravention of the conditions of a licence. The clause deals with grounds for the refusal to renew or the suspension or cancellation of a licence.

Subsection 2. Subsections 4 (2) and (3) of the Act deal with the provisional suspension of or refusal to renew a licence and the continuation of a licence pending renewal.

The grounds on which a licence may be provisionally suspended, etc., and the requirements for continuation of a licence pending renewal are extended.

SECTION 4. Subsection 5 (1) of the Act now reads as follows:

(1) Notice of a hearing by the Commissioner under section 3 or 4 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

The re-enactment of the subsection provides greater flexibility in the manner in which a notice of hearing may be given.

SECTION 5.—Subsection 1. Subsection 7 (1) of the Act now reads as follows:

(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board.

The subsection is enlarged to provide an appeal where, after a hearing, the Commissioner imposes terms and conditions upon a licence or refuses to vary a term or condition of a licence.

Subsection 2. Subsection 7 (3) of the Act now reads as follows:

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the

decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

The words being revoked are redundant. The matters that are appealable and may be determined by the Board are set out in subsection 7 (1) of the Act.

SECTION 6. Section 16 of the Act now reads as follows:

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$1,000 for any subsequent offence.

A separate offence for engaging in business as a live stock dealer without a licence therefor from the Commissioner is created and minimum fines are established.

For any other offence, the minimum fines are abolished and the maximum fines are increased.

Bill 69

1984

**An Act to amend the
Live Stock and Live Stock Products Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 3 (1) (b) of the *Live Stock and Live Stock Products Act*, being chapter 245 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the terms and conditions under which the licence is issued; or

(2) Section 3 of the said Act is amended by adding thereto the following subsection:

(3) The Commissioner may impose such terms and conditions upon a licence as he considers proper.

Terms and conditions

2. The said Act is amended by adding thereto the following section:

3a. Where a licensee is not satisfied with a term or condition imposed upon his licence by the Commissioner, he may apply to the Commissioner to have the term or condition varied or removed and, where the Commissioner proposes to refuse to vary or remove the term or condition, he shall hold a hearing.

Variation or removal of term or condition

3.—(1) Clause 4 (1) (b) of the said Act is amended by inserting after “the” where it occurs the first time in the ninth line “terms and”.

(2) Subsections 4 (2) and (3) of the said Act are repealed and the following substituted therefor:

Provisional
suspension
or refusal
to renew

(2) Notwithstanding subsection (1), the Commissioner may, without a hearing, provisionally suspend or refuse to renew a licence where in his opinion it is necessary to do so for the immediate protection of,

- (a) the safety or health of any person or the public;
- (b) the interests of persons selling live stock or live stock products to the licensee; or
- (c) a fund for producers of live stock or live stock products established under the *Farm Products Payments Act*.

R.S.O. 1980,
c. 159

Notice of
suspension
or refusal
to renew

(3) Notice of suspension or refusal to renew under subsection (2), together with the reasons therefor, shall be given forthwith to the licensee and, as soon as is practicable thereafter, the Commissioner shall hold a hearing to determine whether the licence should be further suspended or cancelled or whether renewal of the licence should be refused.

Continuation
of licence
pending
renewal

(4) Subject to subsections (2) and (3), where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has,

- (a) applied for a renewal of his licence;
- (b) paid the prescribed fee;
- (c) where proof of financial responsibility or security is required, furnished or deposited such proof or security; and
- (d) observed or carried out the other provisions of this Act and the regulations and the terms and conditions under which the licence was issued,

his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

4. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Opportunity
to show or
achieve
compliance

(1) An applicant or licensee shall be afforded an opportunity to show or to achieve compliance before a hearing with all lawful requirements for the issue or retention of a licence.

5.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence or, after a hearing, imposes terms or conditions upon a licence or refuses to vary a term or condition of a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board. Appeal
to Board

(2) Subsection 7 (3) of the said Act is amended by striking out “to determine whether the licence should be issued, renewed, suspended or cancelled” in the third and fourth lines.

6. Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Subject to subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and not more than \$5,000 for any subsequent offence. Offence

(2) Every person who engages in business as a live stock dealer without a licence therefor from the Commissioner is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 for a first offence and not less than \$5,000 for any subsequent offence. Idem

7. This Act comes into force on the day it receives Royal Assent. Commence-
ment

8. The short title of this Act is the *Live Stock and Live Stock Products Amendment Act, 1984.* Short title

Bill 69

*(Chapter 27
Statutes of Ontario, 1984)*

An Act to amend the Live Stock and Live Stock Products Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	June 1st, 1984
<i>3rd Reading</i>	June 1st, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 69

1984

**An Act to amend the
Live Stock and Live Stock Products Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 3 (1) (b) of the *Live Stock and Live Stock Products Act*, being chapter 245 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the terms and conditions under which the licence is issued; or

(2) Section 3 of the said Act is amended by adding thereto the following subsection:

(3) The Commissioner may impose such terms and conditions upon a licence as he considers proper.

Terms and conditions

2. The said Act is amended by adding thereto the following section:

3a. Where a licensee is not satisfied with a term or condition imposed upon his licence by the Commissioner, he may apply to the Commissioner to have the term or condition varied or removed and, where the Commissioner proposes to refuse to vary or remove the term or condition, he shall hold a hearing.

Variation or removal of term or condition

3.—(1) Clause 4 (1) (b) of the said Act is amended by inserting after “the” where it occurs the first time in the ninth line “terms and”.

(2) Subsections 4 (2) and (3) of the said Act are repealed and the following substituted therefor:

Provisional suspension or refusal to renew

(2) Notwithstanding subsection (1), the Commissioner may, without a hearing, provisionally suspend or refuse to renew a licence where in his opinion it is necessary to do so for the immediate protection of,

- (a) the safety or health of any person or the public;
- (b) the interests of persons selling live stock or live stock products to the licensee; or
- (c) a fund for producers of live stock or live stock products established under the *Farm Products Payments Act*.

R.S.O. 1980, c. 159

Notice of suspension or refusal to renew

(3) Notice of suspension or refusal to renew under subsection (2), together with the reasons therefor, shall be given forthwith to the licensee and, as soon as is practicable thereafter, the Commissioner shall hold a hearing to determine whether the licence should be further suspended or cancelled or whether renewal of the licence should be refused.

Continuation of licence pending renewal

(4) Subject to subsections (2) and (3), where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has,

- (a) applied for a renewal of his licence;
- (b) paid the prescribed fee;
- (c) where proof of financial responsibility or security is required, furnished or deposited such proof or security; and
- (d) observed or carried out the other provisions of this Act and the regulations and the terms and conditions under which the licence was issued,

his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

4. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Opportunity to show or achieve compliance

(1) An applicant or licensee shall be afforded an opportunity to show or to achieve compliance before a hearing with all lawful requirements for the issue or retention of a licence.

5.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence or, after a hearing, imposes terms or conditions upon a licence or refuses to vary a term or condition of a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board. Appeal
to Board

(2) Subsection 7 (3) of the said Act is amended by striking out “to determine whether the licence should be issued, renewed, suspended or cancelled” in the third and fourth lines.

6. Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Subject to subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and not more than \$5,000 for any subsequent offence. Offence

(2) Every person who engages in business as a live stock dealer without a licence therefor from the Commissioner is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 for a first offence and not less than \$5,000 for any subsequent offence. Idem

7. This Act comes into force on the day it receives Royal Assent. Commence-
ment

8. The short title of this Act is the *Live Stock and Live Stock Products Amendment Act, 1984.* Short title



